TRAN[illegible] RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 276.

MADAME CÉLESTINE CARITE ET AL., APPELLANTS,

vs.

MADAME FÉLICITÉ TROTOT.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF LOUISIANA.

FILED SEPTEMBER 30, 1879.

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a UNITED STATES OF AMERICA:

Circuit court of the United States in and for the fifth judicial circuit and district of Louisiana.

MADAME FÉLICITÉ TROTOT
versus
MADAME CÉLESTINE CARITE AND OTHERS. } No. 8162.

Hornor & Benedict, solicitors for complainant, appellee; Thos. J. Semmes & W. E. Murphy, solicitors for defendants, appellants.

APPEAL.—TRANSCRIPT OF RECORD.

Returnable into the Supreme Court of the United States of America, at Washington City, D. C., on the second Monday of October, A. D. 1879.

1 UNITED STATES OF AMERICA:

Circuit court of the United States in and for the fifth judicial circuit and district of Louisiana.

MRS. FÉLICITÉ TROTOT
vs.
MRS. CÉLESTINE CARITE ET ALS. } No. 8162. In equity.

Bill of complaint.—Filed April 5th, 1877.

To the honorable the judges of the circuit court of the United States for the district of Louisiana:

Madame Widow Félicité Trotot, a citizen of the State of Mississippi, residing in Bay St. Louis, brings this her bill against Mrs. Célestine Cuny, widow of Casimir Carite, individually and in her capacity of the minor children and heirs of said Casimir Carite, issue of her marriage with said Carite, the said minor children being hereafter named, and being the only lawful issue of said marriage and being the sole surviving issue thereof, and Antoine C. Tremoulet, residents
2 and citizens of the State of Louisiana, and against said minor children, viz, Casimir Louis Carite, Jean Jules Denis Carite, Jean Raymond Carite, Jeanne Marie Carite, and Marie Célestine Carite, sole heirs of said Casimir Carite, deceased, all of whom are citizens of Louisiana, and against Jean M. Brunet, also a citizen of Louisiana, in his capacity of under-tutor of said minor children by appointment of the parish court of the parish of St. James, State of Louisiana, said under-tutor being the proper representative of said minor children herein, inasmuch as their interest herein conflicts with that of their natural tutrix, and against Jean B. Clément, a citizen and resident of the Republic of France, and thereupon your oratrix complains and says:

That on 18th September, 1869, by public act before C. V. Foulon, a notary public in and for the parish of Orleans, said Casimir Carite and Jean Bernard Moulor, representing themselves as residing in New Orleans, and Claude Louis Copponex, residing in the parish of St. James, in this State, entered into a copartnership for an unlimited time, under

the firm-name of "Copponex & Co.," for the purpose of purchas-
3 ing and cultivating a sugar plantation, in which each was to be interested in the proportion of one-third in the property, gains, and losses, as will more fully and at large appear by reference to a duly-certified copy of said act of partnership, which is hereto annexed as Exhibit A, and is prayed to be taken as a part of this bill.

That on 22d September, 1869, by public act, before C. V. Foulon, notary as aforesaid, said Antoine C. Tremoulet, pretending to act as the agent and attorney in fact of one Jean Baptiste Clément, a citizen of France, who resides in that country, and who is not made a party to this bill because he is without the jurisdiction of this hon. court, and cannot be served with process, sold to said firm of Copponex & Co. the following-described property, viz:

1st. A certain tract of land or plantation, established as a sugar estate, situated in the parish of St. James, in this State, on the left bank of the river Mississippi, at about sixty-six miles above this city of New Orleans, consisting, 1st, of twelve arpents and two-thirds, more or less, front to the river, on a depth of eighty arpents, bounded
4 heretofore above by the property of Dr. I. P. Buigay, and below by that of Messrs. Bronce, Seddon, and Wilkins, and now bounded above by the property of Mr. Wood, or assigns, and below by that of Mr. Morton, or assigns, together with the sugar-house, engine, and also other buildings and improvements thereunto belonging, without any exception or reservation; and, moreover, all the horses, mules, horned cattle, and agricultural implements attached to said plantation, and, 2d, four hundred and sixty-four shares of one hundred dollars each in the capital stock of the Citizens' Bank of Louisiana, being the remnant of four hundred and ninety-seven shares from which thirty-three shares have been set apart by said bank to constitute its cash stock, in conformity with an act of the legislature of this State entitled "An act to authorize the Citizens' Bank of Louisiana to convert shares secured by mortgage into cash shares," approved on the 25th day of April, 1853.

2d. The west half of section No. forty-six, in township No. eleven (east of the Mississippi River), range four east, in the district of
5 lands subject to sale in the city of New Orleans, containing three hundred and seventeen fifty one-hundredths acres.

3d. A tract of land adjoining a part of the rear of the plantation above described, being the section forty-five in the township No. eleven, range No. four east, in the district southeast (on the east bank of the river Mississippi), containing six hundred and forty-five forty-four one-hundredths acres.

That the price and consideration of said sale paid for said property by said Copponex & Co. was the sum of fifty-five thousand dollars, of which ten thousand dollars was paid in cash, with the funds of said Copponex & Co., in part payment thereof; and in further payment thereof the said Copponex & Co. assumed the payment to the said Citizens' Bank of the sum of six thousand seven hundred and sixty-four dollars, being the amount in capital of the loan due to the said bank; and for the balance of said price, viz, the sum of thirty-eight thousand two hundred and thirty-six dollars, the said Copponex & Co.
gave their four several promissory notes, secured by mortgage
6 and vendor's lien on said property, each for the sum of nine thousand five hundred and fifty-nine dollars, all drawn by said Copponex & Co., and all dated New Orleans, 22d September, 1869, and payable, respectively, on the first day of September of the years 1870,

1871, 1872, and 1873, and all bearing interest at the rate of eight per cent. per annum from the 1st September, 1869; all of which will more fully appear by reference to duly-authenticated copy of said act of sale, which is hereto annexed as Exhibit B, and is prayed to be made and taken as a part of this bill.

That on the 11th day of January, 1871, after the said partnership had carried on their business with the said sugar plantation since the purchase thereof, by public act, before Louis Dugas, recorder of the parish of St. James, the said Claude L. Copponex sold and delivered to his said copartners, said Moulor and said Carite, the whole of his one-third interest in said partnership and said plantation, appurtenances, stock, etc., for ten thousand dollars cash, each of said remaining partners, said Moulor and Carite, purchasing one-half of the share
7 of said Copponex, thus making said Moulor and said Carite equal partners in said partnership, and equal owners in common of said plantation, stock, appurtenances, etc., and they thus became *equally* bound for the assumption aforesaid of Copponex & Co. to the Citizens' Bank, and for the notes given by said Copponex & Co. to said Jean B. Clément in part payment of said plantation; all of which will more fully appear by reference to the duly-authenticated copy of said act of sale, which is hereto annexed as Exhibit C, and is prayed to be made and taken as part of this bill.

That the new partnership thus formed by said act of purchase from said Copponex, consisting of said Moulor and said Carite, continued and carried on their business with said sugar plantation, etc., until the 30th December, 1872, when by public act before said C. V. Foulon, notary as aforesaid, said Moulor sold and delivered unto said Carite the whole of his share in said property and said partnership, being the undivided half thereof, for the sum and price of fifty-five thousand dollars, and, as a further consideration, the assumption by said Ca-
8 rite of the following debts due upon the place, and secured by mortgage thereon, viz: 1st, $5,573.00 due the Citizens' Bank; 2d, $9,559.00 of the vendor's mortgage granted by Copponex & Co. to Tremoulet as aforesaid, interest on which had then been paid to January 15, 1873; 3d, $9,559.00 of the vendor's mortgage granted by Copponex & Co. to Tremoulet as aforesaid, on which interest had been paid to 28th February, 1873; and, 4th, $9,559.00 of the vendor's mortgage granted by Copponex & Co. to Tremoulet as aforesaid, bearing interest from 22d September, 1869.

In other words, said Carite assumed all the outstanding indebtedness of the said firms of Copponex & Co. and Moulor and Carite, and gave to said Moulor the additional sum of $55,000, which sum was represented by eleven promissory notes of $5,000.00 each, three payable in one year from date, two in two years, two in three years, two in four years, and two in five years, and said notes were secured by mortgage upon said plantation in favor of any holder or holders
9 thereof, said notes being drawn by said Carite to his own order and by him endorsed in blank, and dated on the day of said sale, viz, the 30th December, 1872, all of which will more fully appear by reference to a duly-authenticated copy of said act of sale which is hereto annexed as Exhibit D, and is prayed to be made and taken as a part of this bill.

That your oratrix is the holder and owner of five of the said mortgage notes so made by said Carite and secured by mortgage on said plantation granted by him as aforesaid by act before said Foulon, notary, on the 30th of December, 1872, that is to say, five promissory notes

for the sum of $5,000.00 each, drawn by said Casimir Carite to his own order and by him indorsed in blank, all dated New Orleans, 30th December, 1872, and three of them payable in one year after date, the other two payable in two years, all bearing interest at the rate of eight per cent. per annum from date until payment, and all paraphed "ne varietur" by said Foulon, notary, to identify them with said act
10 of mortgage passed before him on said 30th of December, 1872, between said Carite and said Moulor, all of which said notes are now due and owing to your oratrix, as will more fully appear by reference to said notes, which are hereto annexed as Exhibits E, F, G, H, and K, and are prayed to be made and taken as part of this bill.

That your oratrix is also the holder and owner of a certain promissory note for the sum of $3,000, drawn by said Casimir Carite to the order of said Moulor and by him endorsed in blank, dated New Orleans, December 15th, 1871, and payable one year after date, which note bears interest, according to the laws of Louisiana, at the rate of five per cent. per annum, from December 18th, 1872, until paid, and the said note is now due and owing by said Carite and his heirs to your oratrix, all of which will more fully appear by reference to said promissory note, which is hereto annexed as Exhibit L, and is prayed to be made and taken as a part of this bill.

That your oratrix is also the holder and owner a certain of
11 promissory note for the sum of $1,000.00, drawn by said Casimir Carite to his own order and by him endorsed in blank, dated New Orleans, July 5, 1872, and payable six months after date, which said note bears, by the laws of Louisiana, interest at the rate of five per cent. per annum from the 8th day of January, 1873, until paid, and said note is now due and owing to your oratrix by said Casimir Carite and his heirs, all of which will more fully appear by reference to said promissory note, which is hereto annexed as Exhibit E, and is prayed to be made and taken as a part of this bill.

That all of the aforesaid mortgages hereinbefore set forth were duly and regularly and legally inscribed and recorded according to the laws of the State of Louisiana, by reason whereof the said property became subject to the mortgage claims of your oratrix, as will more fully appear by reference to the certificate of the recorder of the parish of St. James, State of Louisiana, which is hereto annexed as Exhibit N, and is prayed to be made and take as a part of this bill.

12 Now your oratrix further shows that on or about 10th day of February, 1873, the said Casimir Carite, conspiring and confederating with his said wife, Mrs. Célestine Cuny Carite, and said Antoine C. Tremoulet, to injure and defraud your oratrix, caused said Tremoulet to enter proceedings upon the mortgage notes, or a part thereof, bearing upon said plantation, given for the purchase thereof by said Copponex & Co., in this honorable court, in a suit entitled Jean Baptiste Clément vs. Casimir Carite, No. 6916 of the docket, and to obtain therein a writ of seizure and sale against said Carite and against said plantation, and advertised the same for sale on the 5th of April, 1873, and then sold the same by the marshal of the United States for this district to said Tremoulet, pretending to act as agent for said Clément, for a price less than the whole amount due to said Citizens' Bank and the pretended amount due to said Tremoulet in his pretended capacity as agent aforesaid.

That notwithstanding said proceedings and said sale, which oratrix alleges were simulated and fraudulent, the whole of said property
13 remained in the custody, enjoyment, and possession of the said

Casimir Carite, and said proceeding and said sale were made by the said parties conspiring together to defeat the claims of your oratrix, as herein above set forth, as a creditor of said Casimir Carite, with a mortgage subsequent to that held by said Tremoulet, as aforesaid; and your oratrix prays that the proceedings in said suit No. 6916 may be made and taken as a part of this bill.

And your oratrix avers and sets forth that there never was any intention in said conspirators, Carite and Tremoulet, to take away said plantation from said Carite, but that the whole was done to defraud your oratrix out of her rightful claims upon said plantation, as hereinbefore set forth.

That at the date of the institution of said proceedings for said writ of seizure and sale, and at the date of said sale, your oratrix is informed and believes, and does now so allege and aver, that the amount pretended to be due upon said vendor's mortgage on said plantation, as set forth in the petition for the order of seizure and sale aforesaid,
14 was not really due and owing by said Carite; that a large proportion thereof had been paid and extinguished by said Carite; and that all said proceedings were taken and said sale was made illegally and unjustly, with the cognizance and acquiescence of said Carite, and for the purpose of defrauding your oratrix as aforesaid; and your oratrix hereto annexes the marshal's deed, made in pursuance of his said sale, as Exhibit O, and prays the same may be made and taken as a part of this bill.

That your oratrix further shows that in pursuance of the conspiration hereinbefore set forth, said Carite, conspiring with his said wife and with the said Tremoulet, caused said wife, on the 13th of February, 1873, to file a petition in the parish court of the parish of St. James, State of Louisiana, in which she represented that she was married to said Casimir Carite on the 23d April, 1863, and that there existed between them a community of acquests and gains, which allegations were true, and further sets forth that her said husband had become hopelessly involved in debt, which was false, and prayed for a judgment of separation of property from her said husband, Casimir
15 Carite, and to be authorized to institute a suit against him, which last prayer was granted by said judge, and said petition was filed, as aforesaid, on 13th February, 1873, as will appear by reference to a copy of said petition, which is hereto annexed as Exhibit P, and is prayed to be made and taken as a part of this bill.

That, in pursuance of the conspiracy aforesaid, a pretended defence was made by said Casimir Carite to said petition, and on March 13th, 1873, judgment was rendered upon said petition in favor of said wife of Casimir Carite, separating her in property from him, and dissolving the community of acquests and gains heretofore existing between her and her said husband, all of which will more fully appear by reference to an authenticated copy of said judgment which is hereto annexed as Exhibit Q, and is prayed to be made and taken as part of this bill.

That the whole of those proceedings were irregular, illegal, and reprobated by the laws of the State of Louisiana, and absolutely null and void, by reason that said Mrs. Carite had no ground for the said
16 action against her husband, no right to a dissolution of the community of acquests and gains, and because said proceedings were taken in pursuance of said conspiracy, and for the purpose of defrauding your oratrix out of her just rights as a mortgage creditor upon said plantation: and, further, because said proceedings were taken by consent between said husband and wife; were in no manner serious; said

wife had no claim against her husband, and alleged none, and alleged no reason in law why such separation should be decreed, there was no derangement of the affairs of the husband, and there was no allegation that the wife could conduct the business of the plantation better than her husband could, and that her husband conducted said business after the judgment of separation in the same manner as before it, and that the said judgment of separation is invalid against creditors: and, further, because said judgment was never published, as required by law, neither was it ever executed in any manner, nor did any writ of execution ever issue upon it; and if there was ever any separa-
17 tion of property, it was a voluntary one, and therefore null and void.

And your oratrix further shows that said judgment of separation was rendered on 13th of March, 1873, prior to the sale made by the United States marshal aforesaid, which took place on the 5th of April, 1873, and in a few days thereafter, and before said marshal's sale was recorded in the office of the recorder of the parish of St. James, to wit, on the 22d day of May, 1873, in pursuance of the said conspiracy, said A. C. Tremoulet, by act before C. T. Souiat, a notary public of the parish of Orleans, said Tremoulet still pretending to act as agent for said J. B. Clément, made a pretended sale to the said Mrs. Célestine Carite, pretended to be separated in property from her husband as aforesaid, for a sum sufficient to cover the amount alleged to be due by said plantation, to said Tremoulet, as aforesaid, although your oratrix is informed, and verily believes, and does so now allege, that there was not so much due him at that time as was set forth in his said sale to Mrs. Carite, but that a large part thereof had been paid by said Casi-
18 mir Carite in extinguishment of the original debt due by Copponex & Co., but that the whole proceeding was a part and parcel of said conspiracy, and was done only for the purpose of defrauding your oratrix of her mortgage rights on said plantation as aforesaid.

And your oratrix further shows that if said A. C. Tremoulet was, truly and in fact, the agent of said J. B. Clément, of which she calls for strict pooof, then your oratrix says that she is informed and believes, and does now so aver and allege, that all of the said proceedings of the said Tremoulet were taken by him on his own responsibility, without the knowledge or consent of his principal, J. B. Clément, who was absent from this country, and were taken in pursuance of the conspiracy aforesaid, and in order to enable and assist said Casimir Carite in unlawfully defrauding your oratrix of her mortgage rights and claims on said plantation and said property.

And your oratrix is further informed, and verily believes, and so charges, that the whole of the original debt due by said Copponex & Co. to said Tremoulet, acting as aforesaid, has been paid
19 and extinguished by said Casimir Carite and others, and that the said plantation is justly and legally subject to the mortgage claims of your oratrix in priority to those of all others, save what may yet be due to the Citizens' Bank.

That said mortgage claims of your oratrix still exist in full force, and are or ought to be still on record against said plantation in mortgage office in the parish of St. James; and if said mortgage of your oratrix has been or pretended to be erased from said records, that said erasure has been made illegally, fraudulently, by the acts of said defendants, in furtherance of said conspiracy, and without notice to your oratrix, and against her consent, and such erasure is an absolute nullity.

And your oratrix further shows unto your honors that the said Casi-

mir Carite, during his lifetime, and the said Célestine Carite, have frequently acknowledged their part of the conspiracy against your oratrix, and their fraudulent acts in the premises as hereinbefore set forth, in the presence and hearing of your oratrix and other persons.

20 And your oratrix submits to your honors, with equity and good conscience, that all proceedings, judgments, orders, sales, and other actions based upon the frauds and acts of conspiracy as hereinbefore stated and set forth, were had and done in pursuance of the conspiracy and confederacy hereinbefore set forth to injure and defraud your oratrix, and are null and void, and should be declared and set aside by this honorable court as contrary to equity.

That the judgment obtained as aforesaid in said parish court in the parish of St. James in favor of Mrs. Carite against her husband should also be set aside and annulled as being void and of no effect.

To the end, therefore, that the said defendants may, if they can, show cause why your oratrix should not have the relief hereby prayed, and may, upon their several and respective corporal oaths, and according to the best and utmost of their several respective knowledge, remembrance, information, and beliefs, full, true, direct, and perfect answer make to each of the several interrogatories hereinafter numbered and set forth, as by the note hereinunder written, they are respectively required to answer, that is to say:

21 First. Whether it is false that the said Casimir Carite, between the 30th day of December, 1872, and 13th February, 1873, became hopelessly involved in debt? And if you say that it is not false, specify fully the debts in which he became involved during that period, with all the particulars relative thereto.

Second. Whether it is true that there was no money due on the 5th April, 1873, to A. C. Tremoulet, agent, on account of the mortgage granted by Copponex & Co. on the above-described plantation? And if there was any due, how much, and for what?

Third. Whether it is true that there is nothing due at this present time upon said mortgage granted by said Copponex & Co. to A. C. Tremoulet, agent as aforesaid, upon the plantation aforesaid? If there is any due, how much, and for what? Why has it not been paid? Have any arrangements been made for its payment? If yea, when, where, and with whom?

Fourth. Whether it is true that said Casimir Carite resided upon said plantation, superintend the cultivation of the same, and in all respects managed the business concerns of the same, after the seiz-

22 ure of said plantation by the United States marshal as aforesaid, and after the sale by the United States marshal of the 5th of April, 1873, exactly and in all respects as he had done prior thereto, and so continuing to do up the day of his death? And if it is not true, state wherein it is not true, and state fully and clearly when said Casimir ceased to take charge of said plantation, and who took his place.

Fifth. Whether it is true that the conspiracy above alleged was entered into and carried out for the purpose of defrauding the complainan therein of her just rights as a mortgage creditor upon said plantation? If not, what was the purpose of all those proceedings? By whom were they instigated and by whom carried on? And who paid the costs thereof?

Sixth. Whether it is true that said writ of seizure and sale as above described, and said marshal's sale, were made in pursuance of said conspiracy and with the view and intent of defrauding this complainant, and other creditors of Casimir Carite, out of their just rights upon

23 the said property? And, if not, what was the purpose of those proceedings? By whom were they instigated, and by whom carried on? And who paid the costs thereof?

Seventh. Whether it is true that the proceedings in the suit of Mrs. Célestine Cuny vs. Casimir Carite were taken in pursuance of the aforesaid conspiracy, and with the view of depriving all the creditors of said Casimir Carite, excepting A. C. Tremoulet, as agent aforesaid, but including complainant herein, of their just rights against said plantation? And, if not, what was the purpose of these proceedings? By whom were they instigated, and by whom carried on, and who paid the costs thereof?

Eight. If you answer to interrogatories Nos. 5, 6, and 7, above propounded, in the negative, state for what reason said proceedings were taken, and who instigated them, and whether it is true that you knew, at the time said proceedings were taken, that it would have the effect of depriving the complainant herein of her mortgage rights upon the plantation herein above described. And, if not, what was the purpose of these proceedings, by whom were they instigated, and by
24 whom carried on, and who paid the costs thereof?

Ninth. Whether it is true that you have received full payment of the mortgage held by you, either as principal or agent, upon the plantation above described, made by Copponex & Co., by act before Foulon, notary public, on the 22d September, 1869? If you answer in the negative, state exactly what sums you have received in part payment thereof, and from whom and when.

Tenth. Whether it is true that you have frequently, in conversation with the complainant herein and with others, in the city of New Orleans, since said fraudulent proceedings have been consummated, acknowledged and confessed that said proceedings were the result of said conspiracy, and were taken with the view of and for the purpose of depriving all the creditors of said Casimir Carite, except Tremoulet, agent as aforesaid, of their recourse against the plantation hereinabove described, and that in the presence of complainant and others? If not, what did you say?

Eleventh. Whether it is true that all your proceedings with
25 Casimir Carite aforesaid, for and against him, and by which the title of said plantation was passed from the name of said Carite to that of his wife, were taken upon your own responsibility, and without the knowledge and consent of said Jean B. Clément, in whose name you acted? If you say he had knowledge of your proceedings, state how he obtained it and when, and if you state that he consented the same, annex said consent. Produce your correspondence with and by him relative thereto.

Wherefore and for the reason that your oratrix is without adequate remedy in the premises at law, she is compelled to resort to the court of equity where such matters are properly cognizable, and to the end that defendants may their true and perfect answer make to your oratrix's bill, and all the matters and things therein contained, and to the interrogatories hereinbefore set forth, according to the best of their knowledge, information, and belief, upon their several respective corporal oaths; that your oratrix's said mortgage may be be recognized, established, and foreclosed upon said property, with priority and
26 preference over all claims of the defendants; that the act of sale by the United States marshal to A. C. Tremoulet, acting as agent for J. B. Clément, as appears by Exhibit O, aforesaid, and of the date 5th April, 1873, be set aside and annulled; that the judgment of the

13th March, 1873, of the parish court of St. James, State of Louisiana, in the case of Célestine Cuny vs. Casimir Carité, her husband, be set aside and annulled, as being illegal and obtained in fraud, and that the act of sale to A. C. Tremoulet, acting as agent aforesaid, to Mrs. Célestine Cuny, before Souiat, notary, on the 22d of May, 1873, be set aside and annulled as fraudulent and illegal, and that the said A. C. Tremoulet, Mrs. Célestine Carite, in solido, in minor children and heirs of Casimir Carite, for their virile share, viz, Casimir Louis Carite, Jean Raymond Carite, Jeanne Marie Carite, Jean Jules Denis Carite, and Marie Célestine Carite, and their said tutrix, Mrs. Célestine Carite, and their said under-tutor, Jean M. Brunet, may be decreed to pay the amount that shall be found to be due to your oratrix on her aforesaid claims. And that after the proceedings
27 had, the said acts and doings of the said defendants may be adjudged to have been in all things fraudulent, and of no avail to defeat the just rights of your oratrix; that the notes of your oratrix hereinbefore set forth may be decreed to be in full force and effect, and to be a valid debt due your oratrix from said defendants, and that the terms and conditions of the act of mortgage so securing your oratrix's said claim be decreed to still bear upon the property mortgaged, and that said property mortgaged as aforesaid, in favor of your oratrix, may be sold to satisfy your oratrix's said claims, and with priority of mortgage over all others, and that she may be paid the amount thereof out of the proceeds thereof, with such priority; and that your oratrix may have such other and further general relief in the premises as equity and the justice of the case may demand, and as to your honors may seem meet and proper.

And may it please your honors to grant unto your oratrix a writ of injunction in due form of law to restrain the said defendants Mrs. Célestine Carite and A. C. Tremoulet, from in any manner encumber-
28 ing or disposing of the said property and real estate described in this bill of complaint, so as to prejudice or burden or delay your oratrix in the free and complete foreclosure of the said mortgage by the claim of any real or pretended third persons in the ownership or control thereof, and from in any manner mortgaging said real estate to the prejudice or injury of the rights of your oratrix in the premises.

May it please your honors to grant unto your oratrix the writ of subpœna issued out of and under the seal of this honorable court, directed to the said defendants, viz, Mrs. Célestine Carite, Antoine C. Tremoulet, the minor children and heirs of said Casimir Carite, viz, Casimir Louis Carite, Jean Raymond Carite, Jeanne Marie Carite, Jean Jules Denis Carite, and Marie Célestine Carite, and their said tutrix, Mrs. Célestine Carite, and their said under-tutor, Jean M. Brunet, and to Jean B. Clément, commanding them, by a certain day and under a certain penalty, to be and appear in this honorable court, then and there to answer the premises, and to stand to and abide such order
29 and decree as may be made against them.

And your oratrix will ever pray, etc.

(Signed) HORNOR & BENEDICT,
Solicitors.

The defendant Mrs. Célestine Carite is required to answer the interrogatories numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11.

The defendant Antoine C. Tremoulet is required to answer the interrogatories numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11.

(Signed) HORNOR & BENEDICT,
Solicitors.

UNITED STATES OF AMERICA,
District of Louisiana, ss:

On this fourth day of April, 1877, before me personally appeared Madame Félicité Trotot, the above-named complainant, who, being by me first duly sworn, deposes and says that she has read the foregoing bill of complaint subscribed by her, and knows the contents thereof, and that the same is true of her own knowledge, except as to the matters therein stated on information and belief, and as to those matters she believes it to be true.

(Signed) FÉLICITÉ TROTOT.

30 Sworn to and subscribed before the undersigned, a commissioner of the circuit courts, duly appointed and sworn by the circuit court of the United States in and for the district of Louisiana, at New Orleans, as witness my hand and seal, at New Orleans, this 4th April, 1877.

[SEAL.] (Signed) ANDREW HERO, JR.,
Commissioner of Circuit Court.

Exhibit A.—Filed April 5th, 1877.

ÉTAT DE LA LOUISIANE,
Paroisse d'Orléans:

Par devant Charles Victor Foulon, notaire public, dûment commissionné pour cette ville et paroisse de la Nouvelle Orléans, y résidant et en présence des témoins ci-après nommés et soussignés, ont comparu Monsr. Claude Louis Copponex, demeurant en la paroisse S. Jacques, en cet État de la Louisiane; Monsr. Jean Bernard Moulor, dit Jean Louis Moulor, demeurant en cette villa de la Nouvelle Orléans; et Monsr. Casimir Carite, demeurant aussi à la Nouvelle Orléans.

31 Lesquels comparants déclarent former entre eux, par les présentes, sous la raison sociale de "Copponex & Co.," à partir de ce jour et pour un temps non limité, une société ayant pour objet l'acquisition et l'exploitation, pour le compte et au nom de la dite société, d'une habitation établie en sucrerie, terres, batisses, et dépendances, avec ou sans actions dans les fonds capital de la Banque des Citoyens de la Louisiane, établie en cette ville de la Nouvelle Orléans, la dite habitation devant être située en cet État de la Louisiane.

Laquelle société a été contractée entre les dits comparants aux clauses et conditions suivantes, savoir:

ARTICLE 1ier. La dite société a principalement pour objet l'acquisition, au nom et pour le compte de la dite société, d'une habitation établie en sucrerie, et des terres, batisses, et dépendances qui la composent, avec ou sans de la dite Banque des Citoyens, la culture de la canne à sucre sur les terres de la dite habitation et la fabrication du sucre.

32 Les travaux necessaires à cet effet et les achats d'animaux et des objets indispensables pour la bonne exploitation de la dite habitation sucrerie devront être faits immediatement après l'acquisition de la dite habitation sucrerie.

ARTICLE 2D. Chacun des associés s'oblige de mettre dans la dite société la somme de dix mille piastres, faisant pour les trois associés la somme de trente mille piastres, qui formera la capital de la dit société, laquelle somme de trente mille piastres devra être employée d'abord à payer la portion payable, comptant du prix d'acquisition de la dite habitation sucrerie, et le surplus de la dite somme devra être employé à l'achat des animaux et de toutes les choses necessaires à l'exploitation

nmediate de la dit habitation sucrerie, au fin et à mésure des besoins. Les livres et écritures de la société devront constater la date des versements faits dans la caisse sociale par chacun des trois associés, ainsi que le montant de chacun des versements par eux faits.

33 ARTICLE 3me. Chacun des trois associés aura la signature sociale de "Copponex & Co.," dont il ne pourra faire usage que pour les affaires seulement de la dite societé; en conséquence chacun des trois associés, n'importe lequel, pourra faire l'acquisition, au nom de la société, de l'habitation sucrerie étant à acheter, au prix, charges, clauses et conditions qu'il jugera convenables, avec ou sans actions dans les fonds capital de la dite Banque des Citoyens, et contracter au nom de la dite société, tant envers les vendeurs de la dite habitation sucrerie qu'envers la dite Banque des Citoyens, toutes les obligations necessaires, notamment obliger la dite société envers la dite Banque des Citoyens, en cas d'actions de la dite banque achetées avec l'habitation sucrerie, tant pour le montant des dites actions que pour le remboursement des prêts faits sur les dites actions par la dite banque et qui lui restent dus, et assumer toutes les obligations prisés par les souscriptions des dites actions envers la dite banque, ainsi que les hypothèques par eux consenties pour sureté des dites actions et du remboursement des prêts faits par la dite banque sur les dites ac-

34 tions, consentir privilége de vendeur et hypothèque sur la dite habitation sucrerie en faveur des vendeurs de la dite habitation, tant pour sureté du paiement, en principal et intérêts, de toute portion du prix payables à termes de l'acquisition de la dite habitation sucrerie, que pour sureté du paiement de tous intérêts eventuels, honoraires d'avocat, en cas de non paiement des billets qui seront fournis à luir échéance respective, et de poursuites judiciaires pour obtenir le paiement des billets fournis en paiement de toute portion du dit prix payable à terme, et enfin consentir en faveur des vendeurs les clauses de non-alienando et de confession de jugement et d'exécution parée, et en outre transferer, à titre de nantissement et de gage, à la dite Banque des Citoyens, le nombre d'actions de la dite banque que seraient achetés avec la dite habitation sucrerie.

ARTICLE 4e. Le dit Sieur C. L. Copponex aura la direction et l'administration de tous les travaux de culture de la dite habitation sucrerie et de la fabrication du sucre; il gerera toutes les affaires de

35 la dite habitation, dont il sera l'économe il fera notamment tous contrats de lonage d'ouvriers et laboureurs, et paiera tous salariés; il tiendra notamment écritures de toutes les dépenses faites par lui à ce sujet pour le compte de la dite société; il devra faire faire les coupes de cannes et la fabrication du sucre en temps opportun, surveiller attentivement les dits travaux et expédier les sucres en ville à Mr. Casimir Carite, ou à tout autre commissionnaire qu'il conviendrait aux associés de choisir par la dute, pour les dits sucres y être vendus au nom et pour le compte de la dite société. A cet effet le Sieur C. L. Copponex devra démeurer sur la dite habitation et donner tout son temps et consacrer toutes ses connaissances dans la culture de la canne à sucre et dans la fabrication du sucre, à la bonne réussite et à la prosperité des affaires de la dite société; et pour ses peines et soins le dit Sieur C. L. Copponex aura droit par privilége, et avant tout partage de bénéfices, à une compensation annuelle, dont le montant sera fixée sur les livres de la société, payable annuellement au dit Sieur C. L. Cop-

36 ponex, et qui sera prélevée en sa faveur et à lui, payée sur le produit de la vente de la récolte de chaque année.

ARTICLE 5. Les dits Sieurs Moulor et Carite auront, conjointement et

séparément, la gestion et l'administration de toutes le affaires de la dite société en cette ville de la Nouvelle Orléans; ils feront tous les achats de provisions et d'objets, et généralement de toutes les choses nécessaires à exploitation de la dite habitation sucrerie, et ils les expédieront sur l'habitation au dit Sieur C. L. Copponex; ils recevont annullement les récoltes de sucres de l'habitation, et autres produits et en opereront la vente, en cette ville de la Nouvelle Orléans, pour le compte et au mieux des intérêts de la dite société; et ils recevront le prix de ces ventes. Ils devront tenir d'une manière correcte et regulière les livres et écritures de la dite société où seront constaties toutes les affaires de la dite société en cette ville de la Nouvelle Orléans.

ARTICLE 6°. Les bénéfices de la dite société seront partages
37 par tiers entre les trois associés; les dépenses et les pertes, si pertes il y a, seront supportés par eux dans la même proportion. Ils sera fait annuellement, après la récolte de l'annee et la vente de cette récolte, un état de situation des affaires de la dite société; le montant des bénéfices faits, si bénéfices il y a, devra être constaté sur les livres de la société et devra être employé d'abord à l'extinction du prix d'achat de la dite habitation sucrerie, soit en totalité, soit en partie, selon que les associés le jugeront à propos, et le surplus des bénéfices devra être employé à l'extension des cultures de la dite habitation sucrerie, ou de tout autre manière que les associés jugeront convenable, ou même pourra être partagé entre les associés, s'ils le jugent à propos.

ARTICLE 7°. Aucun des associés ne pourra vendre, aliener, ni hypothéquer le tiers qui lui appartient par indivis dans la dite habitation sucrerie, ni aucune portion de ce tiers indivis, sans le consentement exprès et par écrit de ses co-associés, propriétaires des deux autres tiers indivis de la dite habitation, dont l'acquisition doit être faite au
38 nom et pour le compte de la dite société; aucun des associés ne pourra non plus, sans ce même consentement, associer une ou plusieurs personnes à aucune portion de sa part de bénéfices, ni substituer en son lieu et place, dans la dite société, une ou plusieurs personne, ni qui que ce soit, le tout ainsi expressément convenu et stipulé entre les associés.

ARTICLE 8°. En cas de décès de l'un des dits associés durant le cours de la présente société, la dite société continuera de plein droit entre les associés survivants et les héritiers de l'associé prédécedé, pendant quatre ans à partir de la première récolte faite après le dit décès, et à l'expiration de ces quatre années la société devra être liquidé, par les associés survivants qui duront une année pour vjerer cette liquidation, et pour en vendre compte aux héritiers de l'associé prédécédé et régler avec eux.

ARTICE 9° ET DEMIE. Dans le cas ou durant le cours de la dite société, ou à sa dissolution, ou pendant sa liquidation, ou lors de
39 réglement, il surviendrait des difficultés ou contestation quelconques entre les dits associés, ou entre les associés survivants et les heritiers d'un des associés prédécédé, ces difficultés ou contestations devant être soumises à des arbitres, à la décision des quels chacun des associés s'oblige des à present et oblige ses heritiers dese soumettre, chacun des associés chaisira son arbitre et quelle que soit la décision des dits arbitres, cette décision derra être éccécutée comme un jugement en dernier resort et sans appel; ainsi expressement convenu et stipulé entre les associes et dans le cas ou l'un des associés, ou les héritiers de l'un desassicies prédécédé refuserait de se soumettre à la décision des dits arbitres et à l'exécution de la dete décision, et aurait recours à quelque tribunal que se soit pour le règlement des dites difficultés ou contestation; il de-

viendra et sera passible, envers chacun denses co-associés à éitre de dommages et intérêt, du paiement immédiat d'une somme de mille piastres, pour chacune des difficultés ou contestations par lui portées à la décision d'une cour de justice quelconque, le tout ansi expressement convenu et stipulé entre les dits associés.

Telles sont les clauses, conditions et stipulations contenues aux présentes, aux quelles la dits société a été contractée entre les dits comparants.

Dont acte, fait et passé à la Nouvelle Orléans, en l'etude, le dix-huit septembre mil huit cent soixante neuf, dans la quatre-vingt-quatorzième année de l'Indépendance des Etats-Unis, en présence de MM. John Culbertson et John Legier, tous deux témonis competents domicilies en cette ville, qui ont signé avec les dits comparants et le notaire, le tout après lecture faite.

(Signé à la minute:)

L. MOULOR.
C. LOUIS COPPONEX.
CIR. CARITE.
JOHN CULBERTSON.
JOHN LEGIER.
FOULON, *Not Pub.*

Pour copie conforme à la minute, à laquelle minute sont apposés deux timbre du revenu des Etats-Unis, de cinq cents chaque, Nouvelle Orléans, le vingt-huit septembre mil huit cent soixante-neuf.

(Signed:) FOULON, *Not. Pub.*

Recorded at the parish of Saint James, 1st October, 1869.

STATE OF LOUISIANA,
Parish of St. James:

I, the undersigned recorder, do hereby certify that the above and foregoing act is a true and correct copy as recorded in book of mortgages K, folio 261 et seq., No. 224.

Recorder's office, parish of St. James, this 17th day of June, A. D. 1876.

[SEAL.] (Signed) LOUIS DUGAS, *Recorder.*

(Endorsed:) Exhibit A. 8041. U. S. cir. court. Filed Dec'r 29, 1876. F. B. Vinot, d'y clerk. No. 8162. Filed April 5, 1877. F. B. Vinot, d'y clerk.

Translation of Exhibit A.

STATE OF LOUISIANA,
Parish of Orleans, ss:

Before Charles Victor Foulon, notary public, duly commissioned for this city and parish of New Orleans, therein residing and in presence of the witnesses hereinafter named and undersigned, appeared Mr. Claude Louis Copponex, residing in the parish of St. James, State of Louisiana; Mr. Jean Bernard Moulor, surnamed Jean Louis Moulor, residing in the city of New Orleans; and Mr. Casimir Carite, also a resident of New Orleans; and the said appearers declare that they hereby form between themselves, under the firm-name of "Copponex & Co.," to commence this day, and for an unlimited time, a partnership having for its object the purchase and cultivation for

the account and in the name of said partnership of a sugar plantation, lands, buildings, and appurtenances, with or without shares of the capital stock of the Citizens' Bank of Louisiana, established in this city of New Orleans, which said plantation must be situated in the State of Louisiana.

Which partnership has been contracted between said appearers upon the following terms and conditions, to wit:

ARTICLE 1st. Said partnership has for its principal object the purchase, in the name and for account of said firm, of a sugar plantation, and of the lands, buildings, and appurtenances thereunto
43 belonging, with or without shares of said Citizens' Bank the cultivation of said sugar-cane on said plantation and making of sugar, the necessary works for that purpose, and the purchase of animals and things indispensable for the cultivation of said sugar plantation, shall be made immediately after the purchase of said sugar plantation.

ARTICLE 2d. Each one of the partners binds himself to put $10,000 in said partnership, making in the aggregate the sum of $30,000, which shall constitute the capital stock of said partnership, which said sum of $30,000 shall be appropriated, 1st, to the cash payment of the purchase price of said sugar plantation, and the remainder thereof to the purchase of animals and of all things necessary for the immediate cultivation of said sugar plantation as fast as they shall be needed. The books and papers of the firm shall show the dates of the payments made by each of the copartners to the partnership fund, and the amounts respectively paid by them.

ARTICLE 3d. Each of the partners shall have the right to sign
44 the firm-name of "Copponex & Co.," but he shall no right to use it for any other purpose than the affairs of said firm; accordingly each of the partners, it matters not who, can purchase in the name of the firm the sugar plantation which is to be bought, for the price, charges, terms, and conditions he shall deem proper, with or without shares of the capital stock of said Citizens' Bank, and contract in the name of said firm with the vendors of said sugar plantation and the said Citizens' Bank, all the necessary obligations, especially to bind said partnership towardt the said Citizens' Bank, in case shares of said bank are purchased with the said sugar plantation, for the amount of said shares and for the reimbursement of the loans made on said shares by said bank, which are still due to her, and to assume all the obligations contracted by the subscribers to said shares in favor of said bank, as well as the mortgages agreed upon to secure said shares and the reimbursement of the loans made by said bank on said shares; to consent to vendors privilege and mortgage on said
45 sugar plantation to the vendors thereof, to secure the payment of the principal and interests of the credit portions of the purchase price of said sugar plantation, and the payment of all eventual interests, attorneys' fees in case of non-payment at their respective maturities of the notes which shall be furnished, and of judicial proceedings to enforce the payment of the notes given in payment of any portion of the purchase price, and lastly to consent in favor of the vendors to the clauses of de non alienando confession of judgment and executory process, and moreover to transfer to said Citizens' Bank in pledge, the number of shares which shall be purchased with said plantation.

ARTICLE 4. Said C. L. Copponex shall have the management and administration of all the works for the cultivation of said sugar plan-

tation and the making of sugar; he shall superintend all the affairs of said plantation, of which he shall be the overseer; he shall specially make all the contracts for the hire of laborers and ploughmen,
46 and shall pay all the salaries; he shall particularly keep an account of all expenses made by him for that purpose for account of the firm. He shall have the canes cut, and the sugar made at the proper time, superintend attentively said works, and send the sugars to town to Mr. Casimir Carite, or to any other commission merchant who may hereafter be selected by the copartners to sell said sugars in the name and for account of the firm. To that end Mr. C. L. Copponex shall reside on said plantation, and shall devote all his time and abilities to the cultivation of the sugar cane and the making of the sugar, so as to promote the success and prosperity of the affairs of said firm; and for his troubles and cares the said C. S. Cupponex shall be entitled, by preference, before any division of the profits, to an annual compensation which shall appear on the books of the firm, payable annually to the said C. L. Copponex, which said compensation shall be deducted and paid to him from the proceeds of each year's crop.

ARTICLE 5. The said Moulor and Carite shall jointly and sep-
47 arately manage and administer all the affairs of said firm in the city of New Orleans. They shall purchase all provisions, and generally all things necessary for the cultivation of said sugar plantation, which they shall forward to the said C. L. Copponex. They shall receive annually the sugar crops and all other produces of the plantation, which they shall sell in the city of New Orleans, for the account and to the best interest of the partnership. They shall receive the proceeds of said sales, and shall keep in a correct and regular manner the books and papers of said firm, wherein shall be stated all the affairs of said firm transacted in the city of New Orleans.

ARTICLE 6. The profits of said partnership shall be equally divided between the three partners, one-third thereof to each, the expenses and losses, if there are losses, shall be borne by them in the same proportion. It shall annually be made, after the crop of the year and sale thereof, a statement of the condition of the affairs of said firm; the amount
48 of profits realized, if there are profits, shall be noted on the books of the firm, and shall be appropriated first, to the payment of the purchase price of said sugar plantation, either in whole or in part, as to the copartners shall seem meet, and the remainder of the profits shall be employed to the extension of the cultivation of said sugar plantation, or in such other manner as the said copartners shall see fit, or it may be divided between the partners if they think it proper.

ARTICLE 7. Neither of the partners shall have the right to sell, alienate, nor mortgage his third undivided part in said sugar plantation, nor any part thereof, without the express written consent of his copartners, owners of the other undivided two-thirds of said plantation, which is to be purchased, in the name and for account of said partnership; nor will any one of said partners have the right, without said written consent, to associate one or more persons to any portion of his share of the profits, nor substitute in his lieu and stead, in said
49 partnership, one or more persons, nor any one soever; the whole as expressly agreed and stipulated between the copartners.

ARTICLE 8. In case of the death of one of the partners during the existence of said partnership, said partnership shall continue, without interruption, between the surviving partners and the heirs of the deceased partner, for the period of four years, to begin from the first crop

made after the death of said partner, and at the expiration of the four years the affairs of the firm shall be liquidated by the surviving partners, who shall have one year to effect the liquidation, to render an account, and to settle with the heirs of the departed partners.

ART. 9° AND A HALF. In case where during the existence of said partnership, or its dissolution, or pending its liquidation, or at the time of its settlement, there should arise difficulties or contestations of whatever nature between said partners, or between the surviving partners and the heirs of one of the deceased partners, those difficulties
50 or contestations shall be submitted to umpires, to whose decision each of the partners now binds himself and his heirs to abide; each partner shall select his umpire, and whatever be the decision of said umpires, shall be executed as a final judgment, from which no appeal will lie—and it is so expressly agreed and stipulated between the copartners—and in case one of the partners, or the heirs of one of the deceased partners, should refuse to submit to the decision of said umpires and to the execution thereof, and should institute legal proceedings before any tribunal whatsoever, for the settlement of said difficulties or contestations, he shall become and be liable to each of his copartners, in damages and interest, to the immediate payment of the sum of $1,000, for each of the difficulties or contestations which he shall thus submit to a court of justice; the whole as expressly agreed and stipulated between the said copartners.

Such are the terms, conditions, and stipulations, herein con-
51 tained, under which said partnership has been contracted between the said appearers.

Thus done and passed at New Orleans, in my office, the 18th September, 1869, in the 94th year of the Independence of the United States, in presence of Messrs. John Culbertson, and John Legier, both competent witnesses, domiciled in this city, who have signed with the said appearers and the notary, the whole after reading.

(Original signed) L. MOULOR,
C. LOUIS COPPONEX,
CIR. CARITE,

JOHN LEGIER,
JOHN CULBERTSON.

FOULON, *Not. Pub.*

A true copy of the original, to which is affixed two stamps of 5 cts. each of the revenue of the U. S.

New Orleans, September 28, 1869.

(Signed) FOULON, *Not. Pub.*

Exhibit B.—Filed April 5, 1877.

STATE OF LOUISIANA,
Parish of Orleans:

Be it known that on this day, before me, Charles Victor Fou-
52 lon, notary public, duly commissioned for this parish, and the city of New Orleans, herein residing, and in the presence of the witnesses hereinafter named and undersigned, personally came and appeared, Mr. Antoine Cyprien Tremoulet, residing in this city of New-Orleans, herein acting in his capacity of attorney in fact of Mr. Jean Baptiste Clément, residing in the commune of St. Genes de Lombard, Canton de Creon (Gironde), as per act of procuration passed before Mr. Augand, notary at Creon, on the eleventh day of May, eighteen hundred and sixty-nine, and hereto annexed for reference. The said

act of procuration being duly legalized by the French authorities and by the United States consul, and containing all the general powers to sell all the property, movable and immovable, or a part of the same belonging to said Jean Baptiste Clément, for the proces, charges, and conditions, as the attorney shall think fit, and to receive the price thereof.

The said appearer, in his said capacity of attorney in fact, declared that he does by these presents sell, convey, bargain, transfer,
53 set over, and deliver from this day and forever, with full subrogation to all the rights and actions of his said constituent, against all preceding vendors or owners, and under all legal warrantees, binding his said constituent to the full guarantee against all troubles, debts, mortgages, claims, alienations, evictions, and all other encumbrances whatsoever, unto the partnership formed and contracted under the firm of "Copponex & Co.," between Claude Louis Copponex, residing in the parish of Saint James, in this State, Jean Bernard Moulor, dit., Jean Louis Moulor, and Casimir Carite, both residing in this city of New Orleans, per act passed before the undersigned notary, on the eighteenth day of September instant (1869), for the purchase of a sugar plantation, in this State, the culture of the sugar cane on the lands of the plantation, and the fabrication of the sugar; which is hereby accepted in the name and for the account of said partnership of Copponex & Co., by the said Jean Bernard Moulor, dit., Jean Louis Moulor, one of the partners, having the signature of said partnership, and here present—

54 The property hereafter described, to wit:

1st. A certain tract of land or plantation, established as a sugar estate, situated in the parish of St. James, in this State, on the left bank of the river Mississippi, at about sixty-six miles above the city of New Orleans, consisting, 1st, of twelve arpents and two-thirds, more or less, front to the river on a depth of eighty arpents, bounded heretofore above by the property of Dr. J. P. Bingay, and below by that of Messrs. Bruce, Seddon, and Wilkins, and now bounded above by the property of Mr. Wood or assigns, and below by that of Mr. Morson or assigns, together with the sugar-house, engine, and also other buildings and improvements thereunto belonging, without any exception nor reservation; and, moreover, all the horses, mules, horned cattle, and agricultural implements attached to said plantation; and 2d, four hundred and sixty-four shares of one hundred dollars each in the capital stock of the Citizens' Bank of Louisiana, being the remnant of four hundred and ninety-seven shares from which thirty-three shares have been set apart by said bank to
55 constitute its cash stock, in conformity with an act of the legislature of this State, entitled "An act to authorize the Citizens' Bank of Louisiana to convert shares secured by mortgage into cash shares," approved on the 25th day of April, 1853.

2dly. The west half of section No. forty-six, in township No. eleven (east of the Mississippi River), range four east, in the district of lands subject to sale, in the city of New Orleans, containing three hundred and seventeen $\frac{50}{100}$ acres.

3rd. A tract of land adjoining a part of the rear of the plantation above described, being the section forty-five, in the township No. eleven, range No. four east, in the district southeast (on the east bank of the river Mississippi), containing six hundred and forty-five $\frac{54}{100}$ acres.

The above described and sold property, forming together the said

plantation established as a sugar estate, belong to said Jean Baptiste Clément, vendor, in the following manner, to wit:

1st. The said Jean Baptiste Clément has acquired the tract of
56 land of twelve arpents and two-thirds, more or less, grant on the river Mississippi, by eighty arpents in depth, above described, except a lot of ground making part of said tract of land, and measuring one arpent on the public road by two arpents deep (which lot was only reserved); and also the west half of section forty-six, in township No. eleven (east of the river Mississippi), range four east, and above more fully described; and, moreover, all the horses, mules, horned cattle, and agricultural implements attached to said plantation, at the sheriff' sale made by Sosthene Theriot, sheriff of the parish of St. James, on the twenty-eight day of November, eighteen hundred and sixty-five, by virtue of a writ of seizure and sale, dated on the twentieth day of October, eighteen hundred and sixty-five, by the honorable fourth judicial district court of the State of Louisiana for the said parish of Saint James, in the matter or suit, No. 123, of said J. B. Clément vs. J. B. Noel, Jourdan and others; which property was adjudicated by the said
57 sheriff at the said sale at auction to said Jean Baptiste Clément for the sum of thirty-two thousand dollars; which said sum of thirty-two thousand dollars the said Jean Baptiste Clément, the purchaser, has (through his attorney in fact, Bernard Turpin) paid and settled as follows, to wit:

1°. He paid cash, clerk's costs, recorder's costs, State taxes for $1863–1864, guardian's fees, costs of advertisements, revenue stamps, sheriff's fees and commission of sale, amounting to eight hundred and twenty-four dollars.....	$824 00
2°. He has assumed the mortgage and the amount due the Citizens' Bank of Louisiana, amounting to nine thousand and ninety-five dollars and ten cents, as per settlement of said bank on the twenty-eight of November, eighteen hundred and sixty-five.....	9,095 10
And 3rd. The said J. B. Clément has retained in his hands the balance of the price of adjudication, amounting to twenty-two thousand and eighty dollars and ninety cents, to satisfy pro tanto the amount of said writ of seizure and sale in his favor.....	22,080 90
Amount of the price of said adjudication.....	$32,000 00

58 as the whole more fully appears by the sale of said sheriff, passed to the said Jean Baptiste Clément, through his attorney in fact, Bernard Turpin, of said property, on the fourth day of December, eighteen hundred and sixty-five, and recorded at the parish of Saint James on the fourth day of December, eighteen hundred and sixty-five, by T. S. Gaudet, clerk, a true copy of said sheriff's sale delivered on the eight day of September instant, 1869, by John B. Ory, d'y cl'k, clerk's office, parish of St. James, remains hereto annexed for reference. And—

2nd. The said Jean Baptiste Clément became the owner of said lot of ground of one arpent front on the public road by two arpents in depth; and, moreover, of the tract of land above described, being the section No. forty-five, in township No. eleven, containing six hundred and forty-five $\frac{54}{100}$ acres, by virtue of and according to an act of agreement passed before François Reine, jr., recorder in and for the said parish of Saint James, on the eighteenth day of May, 1867, between Mr. Antoine Cyprien Tremoulet, of this city, in

59 his capacity of attorney in fact of said Jean Baptiste Clément, per act of procuration passed before Amedée Ducatel, notary in this city, on the eighteenth day of March, eighteen hundred and fifty-four, of one part, and Messrs. Edouard Jacob, Jean Baptiste, Noel Jordan, and Vasseur Webre, of the said parish of St. James, of the above part, by which act of agreement the said Edouard Jacob, Jean Baptiste Noel, Jordan and Vasseur Webre have abandoned and given in payment unto the said Jean Baptiste Clément the said lot of ground of one arpent in front on the public road by two arpents in depth, and moreover the tract of land above described, being the section No. forty-five, in township No. eleven, range No. four east, in the district south-east, (on the east bank of the Mississippi River,) containing six hundred and forty-five $\frac{54}{100}$ acres, for the sum of twelve thousand and one hundred dollars, with interest thereon at the rate of eight per cent. per annum from the twenty-eighth day of November, eighteen hundred and sixty-five, being the balance remaining due by
60 them to said Jean Baptiste Clément after the sheriff's sale above related, as the whole more fully appears by the said act of agreement, of which a duly certified copy, delivered on the twentieth day of May, eighteen hundred and sixty-seven, by the said François Reine, jr., recorder, remains hereto annexed for reference.

According to the certificate of Louis Dugas, recorder ex officio, recorder of, in and for the said parish of Saint James, dated on the seventeenth day of September, eighteen hundred and sixty-nine, and hereto annexed for reference, it appears that except the mortgage in favor of the Citizens' Bank of Louisiana, inscribed in his office, and affecting only a part of the said above-described property, and assumed by said Jean Baptiste Clément, there is no other mortgage whatsoever recorded in his office in the names of Edouard Jacob, J. B. Noel, Jourdan and Vasseur Webre, and in the name of Jean Baptiste Clément, on the said tract of land or plantation established as a sugar plantation, situated in the parish of St. James, on the left bank of the river
61 Mississippi, about sixty-six miles above New Orleans, consisting 1°, of twelve arpents and two-thirds, more or less, front to the river, on a depth of eighty arpents, together with the sugar-house, engine, and other buildings and improvements thereunto belonging, with only the reserve of a lot of ground measuring one arpent on the public road by two arpents deep. The above mortgage in favor of the Citizens' Bank of Louisiana, assumed by Jean Baptiste Clément at the adjudication made to him by the sheriff of the parish of Saint James on the twenty-eighth day of November, eighteen hundred and sixty-seven, of the above-described property, affects only eight arpents three toises front and five feet front of the above plantation by sixty arpents in depth.

And it moreover appear' by the said certificate of said Louis Dugas, recorder, that there are no mortgages or encumbrances whatsoever on the following-described property:

2°. The west half of section No. forty-six, in township No. eleven, (east of Mississippi River), range four east, in the district of
62 lands subject to sale in the city of New Orleans, containing three hundred and seventeen $\frac{51}{100}$ acres.

3rd. The lot of ground in the first above described tract of land or plantation measuring one arpent front to the public road by two arpents in depth.

And 4°. A certain tract of land adjoining in the rear the plantation first above described, being in section forty-five, in township No.

eleven, range four east, in the district southeast, on the east bank of the Mississippi River, containing six hundred and forty-five $\frac{54}{100}$ acres, acquired from the United States by the partnership of MM. Jourdan Bros., afterwards sold to Messrs. Webre & Jourdan, and again transferred to Mr. J. B. Clément by Messrs. Webre & Jacob, on the 18th day of May, 1867.

And it appears by the sheriff's sale above related that the mortgage in favor of the Citizens' Bank of Louisiana, assumed by the said Jean Baptiste Clément, according to said sheriff's sale, was granted by Noel Jourdan and Julie Laplanche, his wife, in favor of
63 the said bank by act passed before L. M. Taney, then judge of the said parish of Saint James, on the sixteenth day of August, 1834, to secure four hundred and ninety-seven shares reduced to four hundred and sixty-four shares of the capital stock of said bank, for the sum of eight thousand three hundred and fifty-two dollars due first June, 1866, and three hundred and ninety-seven dollars of arrears of said loan with ten per cent. interest per annum on eight thousand seven hundred and forty-nine dollars since first June, 1865; which loan is now reduced to the sum of six thousand seven hundred and sixty-four dollars, payable or renewable first June, 1870, as the said Antoine Cyprien Tremoulet in his said capacity declares.

The present sale is made, agreed, and accepted for and in consideration of the price and sum of fifty-five thousand dollars, in deduction of which the said Antoine Cyprien Tremoulet, in his said capacity of
64 attorney in fact of said Jean Baptiste Clément, vendor, declares and acknowledges to have received cash in ready current money of the United States the sum of ten thousand dollars from the said Jean Bernard Moulor dit Jean Louis Moulor, praying in the name for account and with the funds of the said partnership of Copponex & Co., and for which sum of ten thousand dollars the said A. Cyprien Tremoulet, in his said capacity, grants full acquittance and discharge to the said partnership.

And the said Jean Bernard Moulor dit Jean Louis Moulor, obliges and binds the said partnership of Copponex & Co. to pay the balance of the price of this sale in the manner following, to wit:

1°. To the Citizens' Bank of Louisiana, up to the sum of six thousand seven hundred and sixty-four dollars ($6,764.00), payable or renewable on the first day of June, eighteen hundred and seventy (1870), being the amount in capital of the loan due to the said bank; and

2°. To the said vendor, or to all other future bearers of the
65 four notes hereafter furnished, the balance of the price of this sale, payable one, two, three, and four years from the first day of September, instant (1869), with interest at the rate of eight per cent. per annum from the same first September instant until final payment, said balance amounting to the sum of thirty-eight thousand two hundred and thirty-six dollars; therefore the said Jean Bernard Moulor dit Jean Louis Moulor, in the name of the said partnership of Copponex & Co., binds by these presents the said partnership to pay, and assumed the payment in the lieu and stead of said Jean Baptiste Clément and of Edward Jacob, Vasseur Webre and Jean Baptiste Noel Jourdan, to the Citizens' Bank of Louisiana, of the said sum of six thousand seven hundred and sixty-four dollars, payable on the first day of June, 1870, and being the amount of the loans now due in principal on the aforesaid shares; and to represent the said loans the said Jean Bernard Moulor dit Jean Louis Moulor, in the name of the
66 said partnership of Copponex & Co., has given, under date of

this day, a bond-stock note for the like sum of six thousand seven hundred and sixty-four dollars, drawn by him in the name of said partnership of Copponex & Co. in favor of the Citizens' Bank of Louisiana, payable on the first day of June, 1870, or renewable from year to year agreeably to the provisions of the charter of the said bank, and to the laws thereto, relative and bearing eventual interest at the rate of ten per cent. per annum in case of non-payment at maturity, which bond or stock note has been paraphed "ne varietur" by the undersigned notary, in order to identify the same with this act and the primitive act of mortgage granted and consented in favor of the said Citizens' Bank of Louisiana by the said Noel Jourdan and Julie Laplanche, his wife, according to the act of mortgage above stated, passed before L. M. Taney, then judge in and for the said parish of St. James, on the sixteenth day of August, eighteen hundred and thirty-
67 four; and the said bond or stock note was delivered by the undersigned notary, to Mr. John G. Gaines, here present and accepting, who acknowledges the delivery thereof as being the president of the said Citizens' Bank, and in presence of a resolution or authorization of the board of directors of the said Citizens' Bank of Louisiana, adopted and given at their sitting of the twentieth day of September instant, and whereof a true copy is hereto annexed.

And in order to secure unto the said Citizens' Bank of Louisiana the aforesaid four hundred and ninety-seven shares of mortgage stock, reduced to four hundred and sixty-four shares, and the payment in capital and interest of said stock note, the said Jean Bernard Moulor dit Jean Louis Moulor, in the name of his said partnership of Copponex & Co., hereby assumes the mortgage related in the annexed certificate of mortgages delivered by the recorder of mortgages in and for the said parish of Saint James, granted and consented in favor of the Citi-
68 zens' Bank of Louisiana, by the said Noel Jourdan and Julie Laplanche, his wife, as per the above related act of mortgage, passed before L. M. Taney, then judge of the said parish of Saint James, on the sixteenth day of August, eighteen hundred and thirty-four, which mortgage was assumed by the said Jean Baptiste Clément, according to the sheriff's deed, above related; and moreover, the said Moulor pledges in favor of the said bank the said four hundred and sixty-four shares, purchased with said plantation by said partnership, and finally the said Jean Bernard Moulor dit Jean Louis Moulor, in payment of the remainder of the price of this sale, amounting to the said sum of thirty-eight thousand two hundred and thirty-six dollars, has furnished in the name of the said partnership of Copponex & Co. the four notes of said partnership, subscribed by him in the name of said partnership, and under the signature of Copponex & Co., dated this day, bearing interest at the rate of eight per cent. per an-
69 num from the first day of September instant, until final payment, and payable respectively on the first day of September of the years 1870, 1871 and 1873, and each of said four notes being for the sum of nine thousand five hundred and fifty-nine dollars, and payable in the Bank of America, in this city, which four notes were signed "ne varietur" by the undersigned notary, to identify the same herewith, and delivered by the said Moulor to said A. Cyprien Tremoulet, in his said capacity, who acknowledges receipt thereof.

And in order to secure the payment of capital and interest of said four notes above furnished, at their respective maturity, to secure also the payment of all eventual interest thereon, at the rate of eight per cent. per annum, in case of non-payment of said notes at maturity,

from day of maturity till final payment, and to secure morever the payment of all costs and attorneys' fees in case of litigation and legal proceedings in order to obtain payment of said notes, which fees
70 are hereby fixed by the parties at five per cent. on the amount sued for the said Jean Bernard Moulor dit Jean Louis Moulor, in the name of his said partnership of Copponex & Co., declares that he does by these presents specially affect mortgage and hypothecate by privilege all the property above described and hereby sold in favour of said Jean Baptiste Clément, vendor, and in favor of all other future bearer or bearers of said four notes:

Binding himself, the said Jean Bernard Moulor dit Jean Louis Moulor, and binding his said partnership, Copponex & Co., neither to alienate nor otherwise encumber the property above described and hereby sold, or any part thereof, until final payment of the aforesaid notes in capital and interest; and the said Moulor, in the name of his said partner ship of Copponex & Co., agrees and consents that the present act of sale shall be paramount to a confession of judgment, and shall convey ready execution in favor of said Jean Baptiste Clément, vendor, and in favor of all other future bearer or bearers of said notes in case of non-payment of said notes.

71 And the said Jean Bernard Moulor dit Jean Louis Moulor binds his said partnership of Copponex & Co., to insure immediately agaist fire up to the amount of the sum of fifteen thousand dollars, all the buildings, sugar-house, engine, &c., making part of this sale, and to transfer immediately the policy of insurance, to the order of said Jean Baptiste Clément; and the said Moulor moreover binds his said partnership of Copponex & Co., to renew the said insurance and to transfer the policy of the same thus renewed, to the order of any holder or holders of the four notes above furnished, and in case of refusal or neglect on the part of said partnership of Copponex & Co., to insure the said buildings, &c., or to transfer the policy of insurance as above stipulated, or to renew the said insurance before the expiration of the same, the said Jean Baptiste Clément, or any other future bearer or bearers of said four notes are hereby authorized to renew the same at the cost of the said partnership of Copponex & Co., and to secure the reimbursement of any insurance premium that may
72 thus be paid by the holders of said four notes. The said Moulor in the name of his said partnership hereby specially mortgages and hypothecates the property above described and sold.

The said Antoine Cyprien Tremoulet in his said capacity, binds his constituent to pay immediately all the taxes whatever due on the property above described and hereby sold, binding himself, the said A. C. Tremo'let to exhibit and deliver the said taxes in the shortest possible delay to the said partnership of Copponex & Co., the said Antoine Cyprien Tremo'let declares that the said Jean Baptiste Clément is widower by first marriage of Mistress Caroline Jourdan, deceased, his wife in the year 1841, and that Mrs. Mathilde Clément, wife of Mr. Pierre Marie Eugene Gigueux, residing in France at Saslort, is the only heiress of the said Mrs. Clément, her mother, deceased; and he moreover declares that the said Mrs. Gigueux is above the age of thirty years, and that she has no claim to exercise against the said Jean
73 Baptiste Clément, her father, on the account of her rights in the succession of her said late mother.

And the said Antoine Cyprien Tremo'let further declares that the said Jean Baptist Clément has not contracted a new marriage, and

that he is not tutor nor curator of any minor, interdicted persons nor absentees.

And the said Antoine Cyprien Tremo'let binds himself, by these presents, to produce and exhibit in the shortest possible delay, the ratification, by the said Mrs. Gigneux, of the present sale by an authentic act in due form in favor of the said partnership of Copponex & Co., together with the obligation of said Mrs. Gigneux, to be taken by her in the said act of ratification to warrant the said partnership of Copponex & Co., purchasers of the property above described, against all troubles, debts, mortgages, claims, evictions.

The Unites States revenue stamps for the sum of fifty-five dollars were affixed to the present sale by the undersigned notary.

Thus done and passed at New Orleans in my office, this twenty-
74 second day of September, eighteen hundred and sixty-nine, in the ninety-fourth year of the Independence of the United States, in presence of Messrs. John Culbertson and John Legier, both competent witnesses, residing in this city, who have signed these presents, together with the said appearers in their said respective capacity, the said John G. Gaines, president of the said Citizens' Bank, and due said notary after due reading of the foregoing.

(Original act signed:)

COPPONEX & CO.
A. C. TREMO'LET.
JOHN G. GAINES.
JOHN CULBERTSON.
JOHN LEGIER.
FOULON, *Not. Pub.*

A true copy of the original act.
New Orleans, September 25, 1869.
(Signed) FOULON, *Not. Pub.*

Recorded at the parish of St. James, October 1st, 1869.

STATE OF LOUISIANA,
Parish of St. James:

I, the undersigned, recorder, do hereby certify that the above
75 and foregoing act is a true and correct copy as recorded in Book of Mortgages "K," folio 267 et seq. recorder's office, parish of St. James, this 17th day of June, A. D. 1876.

[SEAL.] (Signed) LOUIS DUGAS, *Recorder.*

(Endorsed:) Exhibit B. U. S. circuit court. No. 8941. Filed Dec'r 29, '76. F. B. Vinot, d'y clerk. No. 8162. Filed April 5, '77. F. B. Vinot, d'y cl'k.

Exhibit "C."—Filed April 5th, 1877.

STATE OF LOUISIANA,
Parish of St. James:

Be it known that on this eleventh day of January, in the year of our Lord one thousand eight hundred and seventy-one, the ninety-fifth year of the Independence of the United States of America, before me, Louis Dugas, recorder, duly commissioned and sworn in and for the parish of St. James, State of Louisiana, therein residing, and in the presence of the hereinafter named and subscribed witnesses, personally came

76 ard appeared Mr. Claude Louis Copponex, residing in the parish of St. James in this State, who declared he does, by these presents, sell, convey, bargain, transfer, set over, and deliver from this day and forever with full subrogation to all his rights and actions against all the preceding vendors or owners, and against all legal warranties, binding himself to the full guarantee against all troubles, debts, mortgages, claims, alienations, evictions, and all other encumbrances whatsoever, unto Messrs. Jean Bernard Moulor, dit Jean Louis Moulor, residing in the parish of Orleans and city of New Orleans, and Casimir Carite, residing in the parish of St. James, State aforesaid, here present, accepting and purchasing in the proportion of one-half each, and acknowledging possession and delivery thereof, the undivided third of the hereafter described property, to wit:

1°. The one undivided third part of a certain tract of land or plantation established as a sugar plantation, situated in the parish of St. James, on the left bank of the Mississippi River, at about sixty-

77 six miles above the city of New Orleans, consisting:

1st, of twelve arpents and two-thirds, more or less, front to the river on a depth of eighty arpents, bounded heretofore above by the property of Dr. J. P. Bingay, and below by that of Messrs. Bruce, Seddon, and Wilkins, and now bounded above by the property of Mr. Wood or assigns, and below by that of Mr. Morson or assigns, together with the sugar-house and the crop of sugar and molasses made, and which is in the sugar-house, engine, machinery, and all other buildings and buildings and improvements thereon and thereunto belonging, without any exception or reservation, and moreover thirty-three mules, two heads of cattle, eleven carts, thirty-three ploughs, harness, blacksmith tools, two drays, and all other agricultural implements attached to said plantation, and 2°. Four hundred and sixty-four shares, of one hundred dollars each, in the capital stock of the Citizens' Bank of Louisiana, being the remnant of four hundred and ninety-seven shares, from which thirty-three shares have been set apart by said bank to constitute its cash stock in conformity with an act of the legislature

78 of this State entitled "An act to authorize the Citizens' Bank of Louisiana to convert shares secured by mortgage into cash shares," approved on the 25th of April, 1853.

2nd. The west half of section No. forty-six, in township No. eleven (east of the Mississippi River), range 4 east, in the district of lands subject to sale in the city of New Orleans, containing three hundred and seventeen $\frac{50}{100}$ acres.

3°. A tract of land adjoining a part of the rear of the plantation above described, being the section forty-five in the township eleven, range 4 east, in the district southeast (on the east bank of the river Mississippi), containing six hundred and forty-five $\frac{54}{100}$ acres.

The above described and sold property forming the said plantation established as a sugar plantation belonged to Jean Baptiste Clément, the vendor for one undivided third of the present vendor C. Louis Copponex, in the following manner, to wit:

1st. The said Jean Baptiste Clément has acquired the tract of

79 land of twelve arpents and two-thirds more or less, front on said Mississippi River, by eighty arpents in depth above described, except a lot of ground making part of said tract of land, and measuring one arpent on the public road by two arpents deep (which lot was only reserved and also the west half of section 46, in township 11, east of the Mississippi River), range 4 east, and more fully described above, and moreover all the horses, mules, horned cattle, and agricultural implements attached to said

plantation at the sheriff's sale made by S. Therist, sheriff of said parish of St. James, on the 28th November, 1865, by virtue of a writ of seizure and sale, dated on the 20th October, 1865, by the hon. the 4th jud. dist. court of the State of Louisiana, in and for the parish of St. James in suit No. 123, of said J. B. Clement vs. J. B. Noel Jourdan and others; which property were adjudicated by the said sheriff at the said sale at auction to said Jean Baptiste Clement, for the sum of thirty-two thousand dollars; which said sum of thirty-two thousand dollars the
80 said Jean Baptiste Clement, the purchaser, has through his attorney in fact, Bernard Turpin, paid and settled as follows:

1°. He has paid cash, clerk's costs, recorder's, State taxes for 1863 and 1864, guardian's fees, costs of advertisements, revenue stamps, sheriff's fees, and commission of sale amounting to eight hundred and twenty-four dollars. $824 00

2°. He has assumed the mortgage and the amount due the Citizens' Bank of Louisiana, amounting to nine thousand and ninety-five $\frac{10}{100}$ dollars, as per settlement of said bank on the 28th November, 1865 ..... 9,095 10

3°. The said J. B. Clement has retained in his hands the balance of the price of adjudication, amounting to twenty-two thousand and eighty $\frac{90}{100}$ dollars, to satisfy protanto, the amount of said writ of seizure and sale in his favor $22,080 90

Amount of the price of said adjudication $32,000 00

As the whole more fully appears by reference to said sheriff's deed duly recorded in this office on the 27th December, 1865, and

2°. The said Jean Baptiste Clément became the owner of said
81 lot of ground of one arpent front by two arpents in depth, and moreover, by the tract of land above described, being section 45, in township 11, containing 645 $\frac{54}{100}$ acres by virtue of and according to an act of agreement passed before F's. Reine, jr., then recorder in and for this parish on the 18th May, 1867, between the said J. B. Clément through his attorney in fact, Mr. Antoine Cyprien Tremoulet, of one part, and Edouard Jacob, J. B. Noel Jourdan, and Vasseur Webre, of the said parish of St. James of the other part, as the whole will more fully appear by reference to said act of agreement of record in this office.

The one undivided third part of the above-described property was purchased by the late partnership of Copponex & Co., for account and in the name of the present vendor, C. Louis Copponex, from the said J. B. Clement through his attorney in fact Antoine C. Tremoulet, per act passed before Chas. V. Foulon, not. pub., in New Orleans, on the 22d of September, 1869, which act of sale was duly recorded in this office 1st October, 1869.

By reference to the annexed certificate of mortgage of the
82 undersigned recorder, it will appear that the following are the only mortgages recorded in this office and affecting partly the above-described property, to wit:

1st. The mortgage granted in favor of the Citizens' Bank of Louisiana, and by the assumption thereof, to secure four hundred and ninety-seven shares in the capital stock of said bank, and the reimbursement of all loans made on said shares, which loans are this day reduced to the sum of six thousand seven hundred and sixty-four dollars, said sum being the amount of the stock-note due the said Citizens' Bank of Louisiana, on the first of June, 1870, or renewable from year to year agreeably to the charter of said bank, which mortgage affects only

eight arpents, three toises, and five feet front of the above-described plantation by sixty arpents in depth.

And it moreover appears by the said certificate of the undersigned recorder, that the following, with the above mortgage, are the only one recorded in this office, and affecting the property presently sold.

The legal mortgage existing by law of Mrs. Augustine Richard,
83 wife of said C. L. Copponex, for the sum of two thousand two hundred and thirty-one $\frac{16}{100}$, which mortgage was recorded in this office the 24th December, 1869.

This sale is made and accepted for and in consideration of the price and sum of ten thousand dollars cash, which said sum the present purchasers do hereby declare to have already paid in ready current money to the said vendor, out of the presence of the undersigned recorder and witnesses. And the said C. L. Copponex does hereby acknowledge due receipt of said sum and gives to the said purchasers full and complete release and discharge and acquittance for the same.

It is hereby expressly understood by and between the parties to this act that the said purchasers, Jean Bernard Moulor, dit Jean Louis Moulor, and Casimir Carite, hereby assume and bind themselves to pay, in the place and stead and to the acquittance of the said vendor, his share of a certain bond stock-note for the sum of six thousand seven hundred and sixty-four dollars, due to the Citizens' Bank of Louisiana,
84 payable on the first of June, 1870, or renewable from year to year according to the provisions of the charter of the said Citizens' Bank of Louisiana, to the several acts of the legislature thereto relative, which note is for the balance due on the loans obtained on the shares of stock herein conveyed as is assumed by the act of mortgage hereinbefore recited.

And the said purchasers moreover assume the mortgage granted in favor of the Citizens' Bank of Louisiana to secure the amount of the said shares of stock and the payments of the loans due thereon.

From the receipts to me exhibited of the collector of State parish taxes in and for the said parish of St. James, it appears that all the taxes due by and affecting the property presently sold have been duly paid.

And to these presents personally came and intervened Mrs. Augustine Richard, wife of age of the said C. L. Copponex, who, being herein duly authorized and assisted by her said husband, took cognizance of the foregoing act of sale which I, recorder, carefully read and ex-
85 plained to her, and having so done, she declared that it was her intention not only to ratify said sale but to make renunciation of all rights she has by mortgage or otherwise on the property herein conveyed, upon which I, recorder, declared to her separately and apart from her said husband, and out of his presence, as it is my duty that, by the laws of this State, as well as by the rights recorded in this parish; on the 24th of December, 1869, she possessed a general mortgage on all the property of her said husband and upon that of the community in case she should renounce thereto: 1°. For the restitution of her dower and the reinvestment of dotal property brought by her in marriage; 2°. For the reinvestment and restitution of dotal property by her acquired during marriage by inheritance, donation, or otherwise; 3°. For indemnity against all debts contracted, or which she may hereafter contract with her said husband; 4°. For such of her paraphernal property and funds as may have been alienated by her said husband, or of which he has had or may have the administration or enjoyment or of which he may otherwise have benefitted; 5°. For nuptial presents made
86 to her by her said husband or others.

That in making her intended renunciation she would deprive herself irrevocably and forever of all rights of reclamation against said property, whether under mortgage, privilege, or otherwise. Whereupon the said wife declared that she still persisted in her intention she had announced, to ratify said act of sale and to dispossess herself of all rights and liens which she has upon said property, whether by marriage, contract, dower, donation, or otherwise; and the said husband being now present before me and authorizing his said wife, she again declared that she does hereby formally renounce, henceforth and forever, any and singular her said rights and transfer the same to the said purchasers, their heirs and assigns, to be had and held by them and by them enjoyed in law and thereout, and she hereby binds herself and her heirs to the said purchasers, their heirs and assigns, that she shall and will at all times acknowledge the validity of this renunciation.

87 Whereas the undersigned recorder in the above-described certificate of mortgage, has omitted to relate a certain mortgage affecting the property presently sold, be it known that together with the two mortgages above set forth, the following is the only one affecting the property herein conveyed and above-described:

The conventional mortgage granted on the 22d of September, 1869, per act passed before Charles V. Foulon, not. pub., in New Orleans, by the late partnership of Copponex & Co. in favor of Jean Baptiste Clément, to secure the payment of a sum of thirty-eight thousand four hundred and thirteen dollars, represented by four notes furnished by the said partnership of Copponex & Co. on the day of said act, each for the sum of nine thousand four hundred and fifty dollars, payable respectively at the Bank of America on the first of September of the years 1870, 1871, 1872, and 1873, bearing interest at the rate of eight per cent. per annum from the 1st of September, 1869, till paid.

88 Now, the said purchasers, Jean Bernard Moulor, dit Jean Louis Moulor, and Casimir Carite, do by these presents assume the payment of the notes above described, of which notes the present vender owes one undivided third, as being a member of the late partnership of Copponex & Co.; and the said purchasers do moreover assume the mortgage granted to secure the said notes and which affects the property presently sold.

Internal-revenue stamps for the value of eleven dollars are hereon affixed and cancelled.

Thus done and passed at the parish of St. James aforesaid, the day, month, and year first above written, in the presence of J. Felix Oubre and J. B. Bourgeois, lawful witnesses, residing in this parish, who hereunto sign their names, with the parties and me, recorder, after due reading.

(Original signed)	C. L. COPPONEX.
	AUGUSTINE COPPONEX.
" "	L. MOULOR.
	CIR. CARITE.
" "	J. FELIX OUBRE.
	J. B. BOURGEOIS.
" "	LOUIS DUGAS, *Recorder.*

I hereby certify the above and foregoing to be a true copy of the original now extant in my office.

In faith whereof witness my official seal and signature, parish of St. James, this 17th day of June, A. D. 1876.

[SEAL.] (Signed) LOUIS DUGAS, *Recorder.*

89 (Endorsed:) Exhibit C. U. S. cir. court. No. 8041. Filed Dec'r 29, 1876. F. B. Vinot, d'y clerk. No. 8162. Filed April 5, 1877. F. B. Vinot, d'y clerk.

Exhibit D.—Filed April 5th, 1877.

ÉTAT DE LA LOUISIANE,
Paroisse d'Orléans:

Par devant Charles Victor Foulon, notaire public, dûment commissionné et assermenté pour cette paroisse d'Orléans et la ville de la Nouvelle Orléans, y résidant, et en présence des témoins ci-après nommés et soussignés, ont comparu Monsr. Jean Bernard Moulor, dit Jean Louis Moulor, demeurant en cette ville de la Nouvelle Orléans, et Monsr. Casimir Carite, demeurant en la paroisse S. Jacques, en cet État de la Louisiane, lesquels comparants, d'un commun accord, consentant expressément, par les présents, la dissolution, pure et simple, pleine et entière, à partir de ce jour, de la société existant entre eux et par
90 eux contractée, pour un temps non limité, sous la raison et signature sociale de "Moulor et Carite," à partir du onze janvier mil huit cent soixante-et-onze, aux clauses, conditions, conventions, et stipulations contenues en leur acte de société ci-après énoncée, et ayant pour objet l'exploitation, au nom et pour le compte de leur dite société, de l'habitation sucrière, terres, batisses, et dépendances situées en la paroisse S. Jacques, en cet État de la Louisiane, achetée par l'ancienne société dissoute de "Copponex & Co.," dont les comparants étaient membres, et qui a été réglée entre eux et le Sieur Claude Louis Copponex, le tout aux termes de l'acte de société passé entre les comparants, devant le notaire soussigné, le onze le février mil huit cent soixante-et-onze; lesquelles habitation sucriere, terres, batisses, et dépendances appartiennent actuellement aux dits Sieurs Moulor et Carite, comparants, et à chacun d'eux, pour une moitié indivisé, ainsi qu'il est établi en leur acte de société ci-dessus énoncée, qui a été enrégistrée au bureau des hypothèques de cette ville, au livre des sociétés No. 8, folios 254, 255, 256, 257, 258, 259, et 260, le siège de la dite société
91 ayant été établi en cette ville de la Nouvelle Orléans, ainsi qu'il appert du dit acte de société.

Et par les mêmes présentes les dits comparants conviennent expressément entre eux de ce qui suit, à titre de liquidation finale et de règlement definitif entre eux, de toutes les affaires en général de leur dite société, et de leurs droits et intérêts respectifs dans la dit société, savoir:

Le dit Sieur Moulor vend, céde, et transporte par les présentes, dés maintenant et à toujours, sous toutes les guaranties de droit et avec pleine subrogation à tous ses droits et actions contre tous précédents vendeurs ou proprietaires, au dit Sieur Casimir Carite, qui l'accepte, savoir:

La moitié indivisé lui appartenant dans les propriétés ci-après décrites composant la dite habitation sucrière, savoir:

1°. La moitié indivisé d'une terre ou habitation établie en sucrerie, située en la paroisse S. Jacques, en cet État, sur la rive gauche du fleuve Mississippi, à environ soixante-six milles au dessus de cette ville de la Nouvelle Orléans, et mesurant douze arpents et deux tiers, plus ou moins, de face au fleuve, sur une profondeur de quatre-vingt
92 arpents, ci-devant bornés, en haut, par la propriété du Dr. J. P. Bingay, et en bas par celle de Messrs. Bruce, Seddon, et Wilkins, et bornés actuellement, en haut, par la propriété de Mr. Wood, ou ayant

cause, et en bas par celle de Mr. Morson, ou ayant cause, ensemble la moitié indivisé de la sucrerie, machines, et autres batisses et améliorations appartenant à la dite habitation, sans aucune exception ou réserve, et en outre la moitié indivisé de quatre cent soixante-quatre actions de cent piastres chaque, dans le fonds capital de la Banque de Citoyens de la Louisiane, étant le restant de quatre cent quatre-vingt-dix-sept actions dont trente-trois actions ont été mises à part par la dite banque pour constituer son capital comptant (its cash stock), conformément à un acte de la legislature de cet État intitulé "Acte pour autoriser la Banque des Citoyens de la Louisiane à convertir des actions garanties par hypothèque au actions comptant," approuvé le vingt-cinq avril 1853, et enfin la moitié indivisé de tous les chevaux, mulets, bêtes à corne, et instruments d'agriculture attachés à la dite habitation
93 sucrière, et de la récolte des sucres et melasses qui existent sur la dite habitation, dans la sucrerie, et de toutes les marchandises qui existent dans le magazin de groceries établi sur la dite habitation.

2°. La moitié indivisé de la moitié ou est de la section No. quarante-six, dans le township No. onze, à l'est du fleuve Mississippi, rangée quatre est, dans le district des terres sujettes à vente dans la ville de la Nouvelle Orléans, contenant trois cent dix-sept $\frac{6}{100}$ acres.

3°. La moitié d'une portion de terre joignant une partie de la limite du fond de la dite habitation ci-dessus décrite, et étant la section No. quarante-cinq, dans le township No. onze, rangée No. 4 est, dans le district sud-est, sur la rive est du fleuve Mississippi, contenant six cent quarante-cinq $\frac{54}{100}$ acres.

Déclarant les dits comparants que depuis l'acquisition de la dite habitation sucrière il a été fait sur la dite habitation des constructions et améliorations de grande valeur, et que la dite habitation est actuellement cultivée et a été mise en état de rapport, et la moitié indivisé des quelles constructions et améliorations appartenant au dit
94 sieur fait partie de la présente vente sans aucune exception ou réserve.

La présente vente est faite, convenue, et acceptée, pour et moyennant le prix et la somme de cinquante-cinq mille piastres, payable de la manière ci-après stipulée, et en outre à la charge par le dit Sieur Casimir Carite, qui s'y oblige expressément, par les présentes, de payer en l'acquit de la dite société les dettes suivantes, dûes par hypothèque et privilége, sur les propriétés et actions ci-dessus décrites par la dite société, savoir:

1°. La somme de cinq mille cinq cent soixante-treze piastres, étant le montant de l'obligation ou stock-note dû par la dite société de "Moulor et Carite" à la dite Banque des Citoyens de la Louisiane, payable en la dite banque le premier juin mil huit cent soixante-treize, et renouvelable, d'année en année, conformément aux dispositions de la charte de la dite banque et aux divers actes de la legislature y relatifs, lequel billet ou stock-note est la balance dûe sur les prêts obtenus de la dite banque sur les actions dont s'agit ci-dessus, garanties ainsi que
95 les dits prêts, par hypothèque consentie, pour sureté des dites actions et des dits prêts, en faveur de la dite Banque des Citoyens, par Mr. Noël Jourdan et Dame Julie Laplanche, son épouse, sur huit arpents trois toises et cinq pieds, face au fleuve, de la dite habitation, sur soixante arpents de profundeur, batisses et autres objets, aux termes d'un acte hypothécaire passé devant L. M. Taney, alors juge de la dite paroisse S. Jacques, le seize août mil huit cent trente-quatre.

Déclarant le dit Sieur Casimir Carite, assumer expressément par les présentes, en l'acquit et à la décharge de la dite société de "Moulor et

Carite" la dite hypothèque, garantissant les dites quatre cent quatre-vingt-dix actions (réduites à quatre cent soixante-quatre actions), ainsi que le paiement, en capital et intérêts, du dit stock-note, à la dite Banque des Citoyens, s'obligeant le dit Sieur Casimir Carite de substituer son propre stock-note ou obligation, en faveur de la dite banque, stock-note de la dite société de "Moulor et Carite," présentement dissoute, et de donner et transférer à titre de nantissement (in pledge) les dites quatre cent soixante-quatre actions à la dite Banque des Citoyens.

96 2°. La somme de neuf mille cinq cent cinquante-neuf piastres, étant le montant en principal d'un billet souscrit par le dit Sieur Moulor, au nom de l'ancienne société de "Copponex & Co.," acquéreur de la dite habitation, et sous la signature de "Copponex & Co.," à l'ordre et endossé par la dite société de "Copponex & Co.," daté du vingt-deux septembre mil huit cent soixante-neuf, portant intérêt au taux de huit pour cent par an, à partir du premier du dit mois de septembre, et payable le premier septembre mil huit cent soixante-et-onze, le paiement du quel billet est dû suivant prorogation, en capital seulement, les intérêts ayant été payés le quinze janvier mil huit cent soixante-treize, époque à laquelle le dit Sieur Casimir Carite s'oblige de le payer, en l'acquit et à la décharge de la dite société de "Moulor et Carite."

3°. Pareille somme de neuf mille cinq cent cinquante-neuf piastres, étant le montant en principal d'un billet également souscrit par le dit Sieur Moulor, au nomme de l'ancienne société de "Copponex & Co.," et sous la signature de "Copponex & Co.," à l'ordre de et endossé par la dite

97 société de "Copponex & Co.," daté aussi du vingt-deux septembre mil huit cent soixante-neuf, portant intérêt au taux de huit pour cent par an, à partir du premier du dit mois de septembre, et payable le premier septembre mil huit soixante-douze, le paiement du quel billet a été prorogé, tous intérêts payés jusqu'au vingt-huit février mil huit cent soixante-treize, époque à laquelle le dit Sieur Casimir Carite s'oblige de le payer, en l'acquit et à la décharge de la dite société de "Moulor et Carite."

Et 4°. Pareille somme de neuf mille cinq cent cinquante-neuf piastres, plus les intérêts sur cette somme au taux de huit pour cent par an, à partir du premier septembre mil huit cent soixante-neuf jusqu'au payment, la dite somme de neuf mille cinq cent cinquante-neuf piastres étant le montant en principal d'un billet aussi souscrit par le dit Sieur Mouler, au nom de l'ancienne société de "Copponex & Co.," à l'ordre de et endossé par la dite société de "Copponex & Co.," sous la signature de "Copponex & Co.," le dit billet daté du dit jour vingt-deux septembre mil huit cent soixante-neuf, portant intérêts au

98 taux de huit pour cent par an, à partir du premier du dit mois de septembre, et payable le premier septembre mil huit cent soixante-treize, s'obligeant le dit Sieur Casimir Carite de payer le dit billet, en principal et intérêts, le dit jour premier septembre mil huit cent soixante-treize, en l'acquit et à la décharge de la dite société de "Mouler et Carite."

Lesquels trois billets de neuf mille cinq cent cinquante-neuf piastres chacun, et ci-dessus décrits, sont signés "ne varietur" par le notaire soussigné, à la date du vingt-deux septembre mil huit cent soixante-neuf, sont assurés en principal, intérêts, &c., par privilège et hypothèque sur la dite habitation ci-dessus décrite, et les terres qui en dépendent, aussi ci-dessus décrites, ainsi que sur toutes les batisses, &c., et ces trois billets font partie de la balance du prix de la vente faite de la dite habitation, et des dit terres, &c., à la dite société de "Copponex & Co.,"

par le mandataire de Mr. Jean Baptiste Clément, suivant acte passé devant le notaire soussigné, le dit jour vingt-deux septembre mil huit soixante-neuf, en régistré au bureau des hypothèques de la dite paroisse S. Jacques, au livre des hypothèques "K," No. 226,
99 folios 267 et suivants.

Déclarant le dit Sieur Casimir Carite assumer par les présentes les dits privilege et hypothèque jusqu'à concurence du montant des trois billets de neuf mille cinq cent cinquante-neuf piastres, et de tous intérêts, frais, &c., et ce en l'acquit et à la décharge de la dite société de "Moulor et Carite."

Lesquelles hypothèques et privilége de vendeurs assumés ci-dessus par le dit Sieur Casimir Carite avaient été assumés précédemment, savoir:

1stly. L'hypothèque en faveur de la Banque des Citoyens, notamment:

1°. Par le Sieur Jean Baptiste Clément, aux termes de la vente à lui faite de la dite habitation et dépendances (à l'exception d'un lot de terre d'un arpent de face sur deux arpents de profondeur en faisant partie, lequel lot a été seulement réservé) par Sosthene Thériot, shérif de la dite paroisse S. Jacques, le vingt-huit novembre mil huit cent soixante-cinq.

2°. Par la dite société de "Copponex & Co.," aux termes d'un acte passé devant le notaire soussigné le vingt-deux septembre mil
100 huit cent soixante-neuf, déjà énoncée ci-dessus, contenant vente de la dite habitation et de toutes ses dépendances (y compris le dit lot de terre d'un arpent de face sur deux arpents de profondeur réservé et non compris dans la dite vente du shérif ci-dessus énoncée), par le mandataire du dit Jean Baptiste Clément, à la dite société de "Copponex & Co.," dans lequel acte de vente est relatée l'acquisition du dit Sieur Jean Baptiste Clément du dit lot de terre d'un arpent de face sur deux arpents de profondeur, et en outre de la portion de terre, étant la section No. quarante-cinq ci-dessus décrite et vendue, par les présentes, dans le township No. onze; la dite acquisition résultant d'un acte passé devant François Reine, jun'r, recorder dans et pour la paroisse S. Jacques, le dix-huit mai mil huit cent soixante-sept, entre le mandataire du dit Sieur Jean Baptiste Clément et Messrs. Edward Jacob, Jean Baptiste Noël Jourdan, et Vasseur Webre, de la dite paroisse S. Jacques.

Et 3°. La dite hypothèque a été assumée par les dite Sieurs Moulor et Carite, aux termes d'un acte passé devant Louis Dugas, recorder dans & pour la dite paroisse S. Jacques, le onze janvier mil huit cent soixante-et-onze, contenant vente, ensuite de la dissolution de la
101 dite de "Copponex & Co.," par le dit Sieur Louis Claude Copponex, aux dits Sieurs Jean Bernard Moulor et Casimir Carite, de son tiers indivis de la dite habitation et de ses dependances.

2dly. Et l'hypothèque et le privilége de vendeur du dit Sieur Jean Baptiste Clément ont été assumés, ensuite également de la dissolution de la dite société de "Copponex & Co.," par les dits Sieurs Moulor et Carite, envers le dit Sieur Louis Claude Copponex, aux termes du dit acte de vente du onze janvier mil huit cent soixante-et-onze, ci-dessus énoncée, au rapport du dit Louis Dugas, recorder de la dite paroisse S. Jacquis.

Le dit Sieur Casimir Carite s'oblige, par les preséntes, de payer au dit Sieur Moulor, vendeur, et à tous autres futurs porteurs des billets par lui ci-après fournis, la dite somme de cinquante-cinq mille piastres, étant le prix de la présente vente en outre des charges ci-dessus stipu-

lées que le dit Sieur Casimir Carite s'est obligé ci-dessus de payer, en l'acquit et à la décharge de la dite société dissute de "Moulor et Carite," laquelle somme de cinquante-cinq mille piastres est payable comme suit, ainsi convenu, savoir:

1°. Quinze mille piastres dans un an;
2°. Dix mille piastres dans deux ans;
102 3°. Dix mille piastres dans trois ans;
4°. Dix mille piastres dans quatre ans; et
5°. Dix mille piastres dans cinq ans.

Le tout à partir de ce jour.

A cet effet le dit Sieur Casimir Carite vient de fournir au dit Sieur Moulor ses onze billets par lui souscrits à son propre ordre et par lui endossés, datés de ce jour, étant chacun de la somme de cinq mille piastres, portant intérêts au taux de huit pour cent par ans, à partir de leur date jusqu'à parfait payment et payables—trois à un an, deux autres à deux ans, deux autres à trois ans, deux autres à quatre ans, et les deux derniers billets à cinq ans de date, ainsi convenu; lesquels onze billets ont été signés "ne varietur" par le notaire soussigné, afin de les identifier avec les présentes, et remis par le dit Sieur Casimir Carite au dit Sr. Jean Bernard Moulor, dit Jean Louis Moulor, qui le reconnait.

Et à la sureté et garantie, tant de paiement, en principal et intérêts, aux échéances ci-dessus fixées, des onze billets ci-dessus fournis, que du paiement de tous intérêts éventuels, au taux de huit pour cent par an, sur le montant des dits billets, en cas
103 de non paiement des dits billets aux échéances ci-dessus fixées, à partir des échéances jusqu'à parfait paiement, ainsi convenu, et sans que cette clause puisse autoriser aucun retard de paiement; et en outre à la sureté et garantie du paiement de tous frais, honoraires d'avocat, en cas de poursuites judiciaires pour obtenir le paiement des dits billets ci-dessus fournis, ou d'un ou de plusieurs des dits onze billets, les dits honoraires ainsi fixés, par les parties, à cinq pour cent du montant poursuivi; et enfin, à la sureté du remboursement de toutes primes d'assurance, dans les cas ci-après prévus, le dit Sieur Casimir Carite déclare affecter, obliger, et hypothéquer, spécialement et par privilége, les propriétés présentement vendues et ci-dessus décrites, et ce tant en faveur du dit Sieur Moulor, vendeur, qu'en faveur de tous autres futurs porteur, des dits onze billets par lui ci-dessus fournis au dit Sieur Moulor, sans qu'il soit besoin d'aucun acte de transfer et subrogation ce qui est ici accepté par le dit Sieur Moulor.

S'obligeant expressément le dit Sieur Casimir Carite à ne vendre,
104 aliener, ni hypothéquer, en aucune manière, les propriétés à lui présentement vendues, ni aucune portion des dites propriétés, au préjudice de l'hypothèque privilégiée, résultant du présent acte pour sureté du paiement des onze billets par lui ci-dessus fournis au dit Sieur Moulor; consentant expressément le dit Sieur Casimir Carite que les présentes emportent confession de jugement et execution parée en faveur du dit Sieur Moulor, et en faveur de tous autres futurs porteurs des dits onze billets, à défaut de paiement de ces mêmes billets.

Le dit Sieur Casimir Carite s'oblige de faire assurer contre les risques de feu, pour un an, et pour la somme de quarante-deux mille piastres, par une des compagnies d'assurance de cette ville, les batisses faisant partie de la présente vente et cession, et de transférer la police de cette assurance, et les droits qui en résultent, au dit Sieur Moulor, afin de lui garantir et assurer ainsi qu'à tous autres futurs porteurs de ces mêmes billets; s'obligeant le dit Sieur Casimir Carite de maintenir,

à ses frais, la dite assurance et le dit transfer d'assurance jusqu'à parfait paiement des dits onze billets ci-dessus fournis par lui au dit
105 Sieur Moulor; à défaut de quoi le dit Sieur Moulor, ou tout autre futur porteur des dits billets, est et demeure autorisé, par les présentes, à faire assurer, lui-même et en son nom, les dites batisses, aux frais du dit Sieur Casimir Carite, et ce pour le temps et la somme qu'il jugera convenables.

C'est ainsi que tout ce que dessus a été fait et convenu expressément entre les dits Sieurs Moulor et Carite à titre de liquidation finale et de règlement definitif entre eux de toutes affaires en général de leur dite société, et de leur droits et intérêts respectifs dans la dite société, y compris la mise sociale de chacun d'eux dans la dite société, et toutes les sommes dues par la dite société au dit Sieur Moulor pour les avances par lui faites, tant pour les avances par lui faites, et dont il est créancier de la dite société par privilége et préference au dit Sieur Casimir Carite aux termes de leur acte de société ci-dessus enoncés, que pour toutes avances faites par lui à la dite société, depuis la date de leur acte de société, suivant les livres et écritures de la dite société et suivant le compte établi et arrêté entre eux des dites avances, ainsi qu'ils le déclarent et reconnaissent.

Cependant, le dit Sieur Moulor ayant reçu, ainsi qu'il le reconnait, le montant pour lequel les écuries de la dite habitation et
106 les mulets avaient été assurés contre les risques du feu, lesquels écuries et mulets ont été dernièrement détruits par le feu, le dit Sieur Moulor s'oblige pour le coût de la reconstruction faite des dits écuries, ainsi que le prix d'achat des mulets qui ont été achetés pour remplacer ceux détruits par le feu, pour lequel prix d'achat le dit Sieur Moulor a fourni son billet de la somme de deux mille cent cinquante piastres, par lui souscrit à son propre ordre et par lui endossé, daté du * * * et payable quatre janvier prochain.

Les dits Sieurs Moulor et Carite déclarent que les seules hypothèques qui existent sur les propriétés ci-dessus décrites sont celles ci-dessus mentionnées, qui ont été assumées par le dit Sieur Casimir Carite aux termes du présent acte, lesquelles avaient été assumées précédemment par les differents acquéreurs des dites propriétés, ainsi qu'il est relaté dans le cours des présentes; et les dits Sieurs Moulor et Carite dispensent de la production aux présentes d'un certificat des hypothèques de la dite paroisse S. Jacques, constatant qu'il n'y a pas d'autres
107 hypothèques inscrites sur les dites propriétés que celles mentionnées et assumées par le dit Sieur Carite dans le présént acte; et les dits Sieurs Moulor et Carite déclarent décharger le notaire soussigné de toute responsibilité au sujet de la non production aux présentes du dit certificat d'hypothèque.

Les dits Sieurs Moulor et Carite s'obligent de faire enregistrer, sans délai, le présent acte, au bureau des alientions et au bureau des hypothèques de la dite paroisse S. Jacques, et déclarent décharger le notaire soussigné de toute responsibilité quelconque au sujet des dits enregistrements.

Aux présentes est intervenue et a comparu Dame Amélie Clémence Delcroix, épouse du dit Sieur Jean Bernard Moulor, dit Jean Louis Moulor, de son dit mari, ici présent, dûment assistée et autorisée à l'effet des présentes.

Laquelle dame intervenante, après avoir pris connaissance du present acte, et avant de le signer, a été informeé par le notaire soussigné, hors de présence de son mari, et en présence des témoins ci-après nom-

més, conformément aux lois de cet État de la Louisiane, que par les lois de cet État la femme a une hypothèque légal sur les biens de
168 son mari et sur ceux de la communauté d'acquets qui existe entre eux, que la loi lui accorde cette hypothèque dans le cas on elle renoncerait à la dite communauté, et que cette hypothèque lui est acquise: 1°, pour la restitution de sa dot; 2°, pour le remploi des biens dotaux qu'elle a apportés en marriage, ou acquis pendant le marriage, par succession ou donation; et, 3°, pour le remboursement du prix de ses biens paraphernaux, lorsqu'ils ont été aliénés par elle, et que le montant a été reçu par le mari ou qu'il en a autrement profité pour son bénéfice particulier.

Et la dite Dame Moulor a aussi été prévenue, hors de la présence de son mari, qu'en renonçant à son hypothèque légale sur les propriétés décrites dans le cours des présentes elle se prive irrevocablement et à jamais de tout recours sur les dites propriétés.

Et après que le notaire soussigné a en ainsi detaillé dans cet acte et a verbalement expliqué à la dite Dame Moulor la nature de ses droits et l'engagement qu'elle contracte de ne jamais revenir sur la présent acte, le dite dame intervenante a déclaré qu'étant bien instruité
169 de la nature de ses droits et de conséquences des présentes elle consent à la vente ci-dessus faite par son mari au dit Sieur Casimir Carite des propriétés ci-dessus décrites, aux prix, charges, clauses, et conditions ci-dessus stipulés; et du consentement de son dit mari, maintenant ici présent, elle renonce formellement, par les présentes, à toute hypothèque légale qu'elle peut avoir et prétendre sur les dites propriétés, soit pour ses droits dotaux, paraphernaux, matrimoniaux, et autres, soit pour aucune de raisons ci-dessus expliquées, abandonnant tous ses droits et privileges sur les dites propriétés en faveur du dit Sieur Casimir Carite, ses héritiers ou ayant cause, renonçant ici spécialement la dite Dame Moulor, en faveur du dit Sieur Casimir Carite, ses héritiers ou ayant cause, à l'hypothèque légale et générale résultant en sa faveur, contre son mari, de son contrat de marriage avec lui, passé devant Joseph Lisbony, alors notaire en cette ville, le douze août mil huit cent cinquante-quatre, inscrit au bureau de hypothèques de cette ville, au livre des donations No. 6, fol. 617, ce que est accepté par le dit Sieur Casimir Carite.

Dont acte, fait et passé à la Nouvelle Orléans, en l'étude, le
170 trente décembre mil huit cent soixante-douze, dans la quatre-vingt-dix-septieme année de l'Indépendence des États-Unis, en présence de Messrs. John Culbertson et John Legier, tous deux témoins compétents, domiciliés en cette ville, qui ont signé avec les dits Sieurs Moulor et Carite, la dite Dame Moulor, et le notaire, le tout après lecture faite des présentes.

(Signé à la minute:)

L. MOULOR.
CH. CARITE.
E. MOULOR.

JOHN CULBERTSON.
JOHN LEGIER.

FOULON,
Not. Pub.

Pour copie conform à la minute.
Nouvelle Orléans, le trente décembre 1872.
[SEAL.]

FOULON,
Not. Pub.

STATE OF LOUISIANA,
Parish of St. James:

I, the undersigned, recorder of the parish of St. James, do hereby certify that the foregoing act was this day inscribed and recorded in my office, in conveyance-book and in mortgage-book No. 147, folio 270 and seq.

Recorder's office, parish of St. James, this 31st day of December, 1872.

[SEAL.] (Signed) LOUIS DUGAS, *Recorder.*

111 (Endorsed:) U. S. circuit court. No. 8041. Filed Dec'r 29, '76. F. B. Vinot, d'y clerk. No. 8162. Exhibit D. U. S. circuit court. Filed April 5, 1877. F. B. Vinot, d'y clerk.

Translation of Exhibit D.

STATE OF LOUISIANA,
Parish of Orleans:

Before Charles Victor Foulon, notary public, duly commissioned and sworn for the parish of Orleans and city of New Orleans, therein residing, and in presence of the witnesses hereinafter named and undersigned, came and appeared Mr. Jean Bernard Moulor, surnamed (dit) Jean Louis Moulor, residing in *in* the city of New Orleans, and Mr. Casimir Carite, residing in the parish of St. James, in the State of Louisiana.

And the said appearers, by common accord, consent expressly by these presents to the dissolution, pure and simple, full and complete, from this day, of the partnership existing between them and contracted for a time not limited, under the firm name of Moulor and Carite, on the 11th January, 1871, on the terms, conditions, conventions,
112 and stipulations contained in their act of partnership hereafter mentioned, and having for its object the cultivation in the name and for the account of their said partnership of the sugar plantation, lands, buildings, and appurtenances situated in the parish of St. James, in this State of Louisiana, purchased by the late firm of Copponex & Co., of which these appearers were members, and which has been settled between them and Mr. Claude Louis Copponex, the whole as per act of partnership between the appearers passed before the undersigned notary on 11th February, 1871.

Which sugar plantation, lands, buildings, and appurtenances actually belong to the appearers Messrs. Moulor and Carite, in the proportion of one undivided half each, as it is stipulated in their act of partnership above mentioned, which has been recorded in the mortgage office of this city in the book of partnerships, No. 8, folios 254, 255, 256, 257, 258, 259 and 260, the seat of this partnership having been established in the city of New Orleans, as appears by said act of partnership.

113 And the said appearers hereby expressly agree between themselves to the following as a final liquidation and definitive settlement of all the affairs in general of their said partnership, and of their respective rights and interests in said partnership, to wit:

The said Mr. Moulor sells, cedes, and sets over by these presents, from this day and forever, with all legal warranties and with full subrogation to all his rights and actions against all former venders and owners, to the said Casimir Carite, who accepts the same, that is to say:

His one undivided half in the following-described properties, composing the said sugar plantation, to wit:

1°. The one undivided half of a tract of land or plantation estab-

lished as a sugar estate, situated in the parish of St. James, in this State, on the left bank of the Mississippi River, at about sixty-six miles above the city of New Orleans, and measuring twelve arpents two-thirds, more or less, front to the river by a depth of eighty arpents, bounded heretofore above by the property of Dr. J. P. Bingan,
114 and below by that of Messrs. Bruce, Seddon, and Wilkins, and now bounded above by the property of Mr. Wood or assigns, and below by that of Mr. Morson or assigns, together with the undivided half of the sugar-house, engines, and other buildings and improvements appertaining to said plantation, without any exception or reservation, and moreover the undivided half of 464 shares, of one hundred dollars each, in the capital stock of the Citizens' Bank of Louisiana, being the remnant of 497 shares, of which 33 shares have been set apart by said bank to constitute its cash stock, in conformity to an act of the legislature of this State, entitled "An act to authorize the Citizen' Bank of Louisiana to convert shares secured by mortgage into cash shares," approved April 25th, 1853; and finally the one undivided half of all the horses, mules, horned cattle and agricultural implements attached to said plantation, and of the sugar crop and molasses now on said plantation, in the sugar-house, and of all the merchandizes now in the grocery store on said plantation.

2°. The undivided half of the west half of section No. 46, in
115 township No. 11, east of the Mississippi River, range 4 east, in the district of land subject to sale in the city of New Orleans, containing $317\frac{50}{100}$ acres.

3°. The undivided half of the tract of land adjoining a part of the rear boundary of the said plantation above described, and being section No. 45, in township No. 11, range No. 4 east, in the district southeast, on the east bank of the Mississippi River, containing $645\frac{54}{100}$ acres.

The said appearers declaring that, since the purchase of said sugar plantation, constructions and improvements of great value have been made thereon, and that said plantation is actually cultivated, and has been put in a position to yield revenues; and one undivided half of said constructions and improvements, belonging to said Moulor, makes part of the present sale without exception or reservation.

The present sale is made, agreed, and accepted for and in consideration of the price and sum of $55,000, payable as hereafter stipulated; moreover the said Casimer Carite hereby binds himself expressly to pay to the acquittance of said partnership the following partnership debts secured by mortgage and privilege on the property and shares above described, to wit:

116 1°. The sum of $5,573, being the amount of the bond or stock-note due by said partnership of "Moulor and Carite" to the said Citizens' Bank of Louisiana, payable at the said bank on 1st June, 1873, and renewable from year to year, agreeably to the provisions of the charter of the said bank and to the divers acts of the legislature relative thereto; which note or stock-note is the balance due on the loans obtained from said bank on the shares above described, secured as well as said loans by mortgage granted in favor of said city Citizens Bank by Mr. Noel Jourdan and Madame Julie Laplanche, his wife, to secure said shares and loans, on eight arpents, three toises and five feet front to the river of said plantation, by sixty arpents in depth, the buildings, &c., as per mortgage act passed before L. M. Taney, then judge of the parish of St. James, on 16th August, 1834.

The said Mr. Casimir Carite declaring that he hereby expressly as-

sumes, and to the acquittance and discharge of the said partnership of Moulor and Carite, the said mortgage securing the said 497 shares (reduced to 464 shares) as well as the payment of the capital and interest of said stock-note to the said Citizens' Bank; the said Mr.
117 Casimir Carite binding himself to substitute his own stock-note or bond in favor of said bank to the stock-note of said partnership of Moulor and Carite presently dissolved, and to give and transfer, in pledge, the said 464 shares to the said Citizens' Bank.

2°. The sum of $9,559, being the amount in principal of a note subscribed by said Moulor, in the name of the late firm of Copponex & Co., the purchaser of said plantation, and under the signature of Copponex & Co., to the order of and endorsed by said firm of Copponex & Co., dated 22d September, 1869, bearing interest at the of eight per per cent. per annum from the 1st day of said month of September, and payable the 1st September, 1871; the payment of the principal of said note is due, pursuant to prorogation the (interest having been paid), on 15th January, 1873, at which time the said Casimir Carite binds himself to pay the acquittance and discharge of said partnership of Moulor and Carite.

3°. A like sum of $9,559, being the amount, in principal, of a note also subscribed by said Mr. Moulor, in the name of the late partnership of Copponex & Co., to the order of and endorsed by said
118 firm of Copponex & Co., dated 22d September, 1869, bearing interest at the rate of eight per cent. per annum from the first day of said month of September, and payable 1st September, 1872, the payment whereof has been extended, all interests paid, until the 28th February, 1873, at which time the said Mr. Casimir Carite binds himself to pay the same to the acquittance and discharge of said partnership of Moulor and Carite, and 4°. a like sum of $9,559 besides the interest thereon, at the rate of 8% per annum, from 1st September, 1869, till paid; the said sum of $9,559 being the amount in principal of a note also subscribed by the said Moulor, in the name of the late firm of Copponex & Co., to the order of and endorsed by said firm of Copponex & Co., under the signature of Copponex & Co., the said note bearing date 22d September, 1869, and bearing interest at the rate of eight per cent. per annum from 1st day of said month of September, and payable 1st September, 1873, binding himself, the said Mr. Casimir Carite, to pay the said note, principal and interest, on said 1st
119 September, 1873, to the acquittance and discharge of said firm of Moulor & Carite.

Which three above-described notes of $9,559 each are paraphed Ne varietur by the undersigned notary, under date of 22d September, 1869, and are secured in principal, interests, &c., by privilege and mortgage on above-described plantation, and the lands appertaining thereto, also described above, as well as on all the buildings, &c., and these three notes are part of the balance of the price of sale of said plantation and of said lands, &c., to said partnership of Copponex & Co. by the agent of Mr. Jean Baptiste Clément, as per act passed before the undersigned notary on said 22d September, 1869, recorded in the mortgage office of the parish of St. James, in book of mortgages "K," No. 226, fo's 267 et seq.

The said Mr. Casimir Carite declaring that he hereby assumes the said privilege and mortgage for the full amount of the said three notes of $9,559, with all interests, costs, &c., and this for and to the acquittance and discharge of said firm of Moulor and Carite.

Which said mortgage and vendor's privilege herein above as-

120 sumed by the said Mr. Casimir Carite had heretofore been assumed, that is to say, 1stly, the mortgage in favor of the Citizens' Bank especially.

1°. By the said Mr. Jean Baptiste Clément, as per act of sale to him of the said plantation and appurtenances (with the exception of a lot of ground, one arpent front by two arpents deep, making part thereof, which said lot has only been reserved) by Sosthene Theriot, sheriff of said parish of St. James, November 28, 1865.

2°. By the said partnership of Copponex & Co., as per act of sale passed before the undersigned notary, September 22d, 1869, already mentioned above, containing the sale of said plantation and appurtenances including said lot of ground, of one arpent front by two arpents in depth (reserved and not included in said sheriff's sale, above mentioned), by the agent of said Mr. Jean Baptiste Clément to said partnership of Copponex & Co., in which said act of salé is recited the title of said Mr. Jean Baptiste Clément to said lot of ground of one
121 arpent front by two arpents in depth, and moreover of the portion of land, being the section No. 45 above described and sold by these presents in township No. 11; the said acquisition resulting from an act passed before François Reine, jr., recorder in and for the parish of St. James, on the 18th May, 1867, between the agent of said Mr. Jean Baptiste Clément and Messrs. Edward Jacob, Jean Baptiste, Noél Jourdan and Vasseur Webre, of the said parish of St. James.

And 3°. The said mortgage has been assumed by the Moulor & Carite, as per act passed before Louis Dugas, recorder in and for the said parish of St. James, on 11th January, 1871, containing sale, after the dissolution of said partnership of Copponex & Co., by the said Louis Claude Copponex to the said Jean Bernard Moulor and Casimir Carite of his undivided third of said plantation and its appurtenances.

2dly. And the mortgage and vendor's privilege of said Jean Baptiste Clément have been assumed after the dissolution of the said partnership by the said Moulor & Carite towards the said Louis Claude
122 Copponex, as per act of said sale of 11 January, 1872, above mentioned, passed before said Louis Dugas, recorder of said parish of St. James.

The said Casimir Carite binds himself by these presents to pay to the said Moulor, vendor, or to all future bearers of the notes by him hereafter furnished, the said sum of $55,000, being the price of the present sale, moreover the charges above stipulated which said Casimir Carite has bound himself to pay as aforesaid to the acquaintance and discharge of said late firm of Moulor and Carite; which said sum of $55,000 is payable as follows, as agreed upon, to wit:

1°. $15,000 in one year;

2°. $10,000 in two years;

3°. $10,000 in three years;

4°. $10,000 in four years; and 5°. $10,000 in five years; the whole from this day.

To this end, the said Mr. Carite has just furnished to Mr. Moulor his eleven notes, by him subscribed, to his own order and by him endorsed, dated this day, each for the sum of $5,000,00 bearing interest at the rate of eight per cent. per annum from their date until paid, and
123 payable three in one year; two in two years; two others in three years; two others in four years, and the two last notes in five years from date, as agreed on, which eleven have been paraphed Ne varietur by the undersigned notary, to identify them with these pres-

ents, and were delivered by the said Casimir Carite to the said Jean Bernard Moulor, dit Jean Louis Moulor, who acknowledges it.

As a security and guarantee for the payment of the principal and interests at the respective maturities of the eleven notes above furnished, and of the payment of all eventual interests, at the rate of eight per centum per annum, on the amount of said notes, in case of non-payment of said notes at their respective maturities from said maturities until final payment, as covenanted, and this clause will not authorize any delay in the payment thereof; and, moreover, as a security and guarantee for the payment of all costs attorneys' fees, in case of judicial proceedings to enforce the payment of said above-described notes, or of one or several of said notes, the said attorneys's fees are fixed by the parties at five per cent. on the amount sued for;

124 and, finally, as a security for the reimbursement of all insurance premiums in the cases hereafter mentioned, the said Mr. Casimir Carite declares that he affects, hypothecates, and mortgages specially and with privilege the property presently sold and described above, and this as well in favor of Moulor, vendor, as in favor of any other future bearers of said eleven notes by him furnished to said Moulor as aforesaid, without any act of conveyance or subrogation being needed, which is here accepted by the said Moulor.

The said Casimir Carite binding himself expressly not to sell, alienate, nor mortgage, in any manner, the property presently sold to him, nor any part thereof, to the predjudice of the privileged mortgage, resulting from the present act, for surety of the payment of the eleven notes by him furnished to said Moulor as aforesaid; the said Casimir Carite expressly consenting that these presents import confes-

125 sion of judgment and ready execution in favor of said Moulor, and in favor of all other future bearers of said eleven notes, in default of payment thereof.

The said Casimir Carite binds himself to insure against all risks of fire for one year, and for the sum of $42,000 in an insurance company of this city, the buildings making part of the present sale and cession, and to transfer said policy of insurance and the rights thereunder to the said Moulor, so as to secure the payment of said notes to said Moulor and all future bearers thereof in case of the destruction of said buildings by fire; the said Casimir Carite binding himself to maintain, at his costs, the said insurance, and the said transfer of insurance, until the said eleven notes furnished by him to said Moulor as aforesaid are paid, in default whereof the said Moulor or any other future bearer of said notes is hereby authorized to have said buildings insured in his name, at the costs of said Casimir Carite, and this for the period of time and for the sum he shall judge proper.

126 It is thus that all of the above has been expressly bargained and covenanted between the said Moulor and Carite as a final liquidation and definitive settlement between them of all the affairs in general of their said partnership, and of their respective rights and interests in said partnership, including the amount each of said partners has furnished to the partnership fund, and all the sums due by said firm to said Moulor for advances made by him, either for the advances made by him and for which he is a creditor of said partnership by privilege and preference, to the said Casimir Carite as per act of partnership above mentioned, as for all advances made by him to said partnership since the date thereof, according to the books and papers of said firm, and the account rendered and agreed on between themselves as they declare and acknowledge.

However, the said Moulor having received, as he acknowledges it, the amount for which the stables and mules on said plantation had been insured against the risks of fire, which stables and mules
127 were recently destroyed by fire, the said Moulor binds himself to pay the costs of the rebuilding of said stables as well as the purchase price of the mules which were bought to replace those destroyed by the fire; for which purchase price the said Moulor has furnished his note for the sum of $2,150, by him drawn to his own order, and by him endorsed, dated and maturing on 4th January next.

The said Moulor and Carite declare that the only mortgages existing on the properties above described are those mentioned above, which have heretofore been assumed by the different purchasers thereof, as stated in this act, and the said Moulor and Carite waive the production of a certificate of the recorder of mortgages of said parish of St. James showing that there are no other mortgages recorded against said properties and assumed by the said Carite in the present act, and thee said Moulor and Carite declare that they discharge the undersigned notary of all responsibility for the non-production of said mortgage certificate.

The said Moulor and Carite bind themselves to have the present act recorded in the conveyance and mortgage offices of said parish
128 of St. James, and discharge the undersigned from all responsibility whatsoever as to the said recording.

To these presents came and intervened Madame Amelie Clémence Delcroix, wife of said Mr. Jean Bernard, dit Jean Louis Moulor, who being herein duly assisted and authorized by her said husband, here present, took cognizance of the present act before signing it, was informed by the undersigned notary, out of the presence of her husband, and in the presence of the witnesses hereafter named, in conformity with the laws of Louisiana, that by the laws of said State the wife has a legal mortgage on all the property of her husband and on those of the community of acquets, and gains existing between them; that the law grants her that mortgage, in case she should renounce to said community and that this mortgage is granted to her: 1°, for the restitution of her dower; 2°, for the reimbursement of dotal property which she has brought in marriage, or which she has acquired during marriage by succession or donation; 3°, for the reimbursement of the price of her paraphernal properties, when they have been alienated by
129 her and the proceeds thereof have been received by her husband or by him used for his own individual benefit.

And the said Madame Moulor has also been warned, out of the presence of her husband, that by renouncing to her legal mortgage on the property described in the present act she would deprived herself irrevocably and forever of all rights on said property.

And the undersigned notary having thus detailed and orally explained to said Madame Moulor the nature of her rights and the engagement, she contracts never to repudiate her present renunciation, the said Mad. Moulor declared that being aware of the nature of her rights and of the consequences of her action in the prémises, she consents to the sale above made by her husband to said Casimir Carite of the property above described for the price, charges, clauses, and conditions above stipulated; and with the consent of her said husband, now here present, she formally renounces, by these presents, to all legal mortgage she may have or pretend to have on said property, whether for her dotal, paraphernal, matrimonal rights and others, or for any of the reasons above described, renouncing to all her rights and

130 privileges on said property, in favor of said Mr. Casimir Carite, his heirs or assigns, the said Madame Moulor here expressly renouncing in favor of Casimir Carite, his heirs or assigns, to the legal and special mortgage, resulting in her favor, against her husband, from her marriage contract, passed before Joseph Lisbony, then a notary in this city, on the 12th August, 1854, recorded in the mortgage office in this city, in the book of donations No. 6, folio 617, which is accepted by the said Casimir Carite.

This done and passed at New Orleans, in my office, the 30th December, 1872, in 97th year of the Independence of the United States, in presence of Messrs. John Culberston and John Legier, both competent witnesses, domiciled in the city, who have signed with the said Messrs. Moulor & Carite, the said lady Moulor, and the notary, after due reading.

(Original signers:)

L. MOULOR,
CIR. CARITE,
E. MOULOR.

JOHN CULBERSTON,
JOHN LEGIER.

FOULON, *Not. Pub.*

A true copy of the original.

New Orleans, 30th December, 1872.

[SEAL.] (Signed) FOULON, *Not. Pub.*

131 *Exhibit E.—Filed April 5th*, 1877.

$5,000.] NOUVELLE ORLÉANS, *le* 30 *démcembre* 1872.

Dans un an de cette date je paierai à mon propre ordre la somme de cinq mille piastres, valeur reçue, portant intérêt, au taux de huit pour cent par an; à partir de ce jour jusqu'à parfait paiement.

(Signed) CIR. CARITE.

(Endorsed:) (Signed) CIR. CARITE.

(Written across the face:)

Ne varietur 30 décembre 1872, portant privilege de vendeur & hypothèque, suivant acte de même date à mon rapport contenant vente d'habitation, &c., &c.

(Signed) FOULON, *Not. Pub.*

Exhibit F.—Filed April 5, 1877.

$5,000.] NOUVELLE ORLÉANS, *le* 30 *décembre* 1872.

Dans un an de cette date je paierai à mon propre ordre la somme de cinq mille piastres, valeur reçue, portant intérêt, au taux de huit pour cent par an, à partir de ce jour jusqu'à parfait paiement.

(Signed) CIR. CARITE.

(Endorsed:) (Signed) CIR. CARITE.

(Written across the face:)

Ne varietur 30 décembre 1872, portant privilege de vendeur & hypothèque, suivant acte de même date à mon rapport contenant vente d'habitation, &c., &c.

(Signed) FOULON, *Not. Pub.*

132 *Exhibit G.—Filed April 5, 1877.*

$5,000.] NOUVELLE ORLÉANS, *le 30 décembre* 1872.

Dans un an de cette date je paierai à mon propre ordre la somme de cinq mille piastres, valeur reçue, portant intérêt, au taux de huit pour cent par an, à partir de ce jour jusqu'à parfait paiement.

(Signed) CIR. CARITE.

(Endorsed:) (Signed) CIR. CARITE.

(Written across the face:)

Ne varietur 30 décembre 1872, portant privilege de vendeur & hypothèque, suivant acte de même date à mon rapport contenant vente d' habitation, &c., &c.

(Signed) FOULON, *Not. Pub.*

Exhibit H.—Filed April 5, 1877.

$5,000.] NOUVELLE ORLÉANS, *le 30 décembre* 1872.

Dans deux ans de cette date je paierai à mon propre ordre la somme de cinq mille piastres, valeur reçue, portant intérêt, au taux de huit pour cent par an, à partir de ce jour jusqu'à parfait paiement.

(Signed) CIR. CARITE.

(Endorsed:) (Signed) CIR. CARITE.

(Written across the face:)

Ne varietur 30 décembre 1872, portant privilege de vendeur & hypothèque, suivant acte de même date à mon rapport contenant vente d' habitation, &c., &c.

(Signed) FOULON, *Not. Pub.*

133 *Exhibit K.—Filed April 5, 1877.*

$5,000.] NOUVELLE ORLÉANS, *le 30 décembre* 1872.

Dans deux ans de cette date je paierai à mon propre ordre la somme de cinq mille piastres, valeur reçue, portant intérêt, au taux de huit pour cent par an, à partir de ce jour jusqu'à parfait paiement.

(Signed) CIR. CARITE.

(Endorsed:) (Signed) CIR. CARITE.

(Written across the face:)

Ne varietur 30 décembre 1872, portant privilege de vendeur & hypothèque, suivant acte de même date à mon rapport contenant vente d'habitation, &c., &c.

(Signed) FOULON, *Not. Pub.*

Exhibit L.—Filed April 5th, 1877.

$3,000.00.] NEW ORLEANS, *December* 15, 1871.

One year after date I promise to pay to the order of Mr. L. Moulor three thousand dollars, at , value received.

(Signed) CIR. CARITE.

(Endorsed:) (Signed) L. MOULOR.

Exhibit M.—Filed April 5th, 1877.

134 $1,000.00.] N. O., *July 5th*, 1872.

Six months after date I promise to pay to the order of myself the sum of one thousand dollars, at no interest, value received.

(Signed) CIR. CARITE.

(Endorsed:) (Signed) CIR. CARITE.

Translation of Exhibit E.

$5,000.] NEW ORLEANS, *December* 30, 1872.

In one year from this date I will pay to my own order the sum of five thousand dollars, value received, bearing interest at the rate of eight per cent. per annum from date until paid.

(Signed) CIR. CIRATE.

(Endorsed:) CIR. CIRATE.

(Written across the face:)

Ne varietur December, 30, 1872. bearing vendor's privilege & mortgage, as per act of even date passed before me containing sale of plantation, &c., &c.

FOULON, *Not. Pub.*

Translation of Exhibit F.

$5,000.] NEW ORLEANS, *December* 30, 1872.

In one year from this date I will pay to my own order the sum of five thousand dollars, value received, bearing interest at the rate of eight per cent. per annum from this day till paid.

135 (Signed) CIR. CIRATE.

(Endorsed:) CIR. CIRATE.

(Written across the face:)

Ne varietur December 30, 1872, bearing vendor's privilege & mortgage, as per act before me of even date containing sale of plantation, &c.

FOULON, *Not. Pub.*

Translation of Exhibit G.

$5,000.] NEW ORLEANS, *30th December*, 1872.

One year after date I will pay to my own order the sum of five thousand dollars, value received, bearing interest at the rate of eight per cent. per annum from date until paid.

(Signed) CIR. CARITE.

(Endorsed:) (Signed) CIR. CARITE.

Ne varietur, December 30, 1872, bearing vendor's privilege & mortgage, as per act of even date before me containing sale of plantation, &c.

FOULON, *Not. Pub.*

Translation of Exhibit H.

$5,000.] NEW ORLEANS, *December* 30, 1872.

Two years after date I will pay to my own order the sum of five thou-

sand dollars, value received, bearing interest at the rate of eight per cent. per annum from this day till paid.

(Signed) CIR. CARITE.

(Endorsed:) (Signed:) CIR. CARITE.

Ne varietur, 30 December, 1872, with vendor's privilege & mortgage, as per act of even date passed before me containing sale of plantation, &c.

FOULON, *Not. Pub.*

136 *Translation of Exhibit K.*

$5,000.] NEW ORLEANS, *December* 30, 1872.

Two years after date I will pay to my own order the sum of five thousand dollars, value received, bearing interest at the rate of eight per cent. per annum from this day till paid.

(Signed) CIR. CARITE.

(Endorsed:) CIR. CARITE.

(Written across the face:)

Ne varietur, December 30, 1872, with vendor's privilege & mortgage, as per act this day passed before me containing sale of plantation, &c., &c.

FOULON, *Not. Pub.*

Exhibit N.—Filed April 5th, 1877.

STATE OF LOUISIANA,

Parish of St. James:

I, the undersigned recorder, duly commissioned and qualified in and for the parish of St. James, State of Louisiana, do by these presents certify that the following are the only mortgages recorded in this office and affecting the following-described property, to wit:

A certain tract of land or plantation, established as a sugar estate, situated in the parish of St. James, on the left bank of the river Mississippi, at about 66 miles above New Orleans, consisting—

137 1°. Of twelve arpents and two-thirds, more or less, front to the river, on a depth of eighty arpents, bounded above by the property of the late Dr. J. T. Bingay, now the property of Duncan F. Kenner, and below by that of Messrs. Morson & Seddon, together with the sugar-house engine, and other buildings and improvements thereunto belonging.

2°. The west half of section No. 46, in township No. 11 (east of the Mississippi River), range 4 east, in the district of lands subject to sale in the city of New Orleans, containing $317\frac{51}{100}$ acres.

1°. The conventional mortgage granted Noël Jourdan and Julie Laplanche, his wife, on the 16th August, 1834, in favor of the Citizens' Bank of Louisiana, on eight arpents three toises and five feet front of the above-described plantation, by sixty arpents in depth, to secure 600 shares in the capital stock of said bank and the reimbursement of all loans granted by said bank on said stock, which mortgage was assumed on the 28th November, 1855, by J. B. Clément, at the sale made by the sheriff of this parish of said property, in the suit of J. B. Clément, No. 123, J. B. N. Jourdan and others, of the docket of the 4th judicial

138 district court, parish of St. James, which mortgage was assumed by Claude Louis Copponex, of the parish of St. James, and Jean

Barnard Moulor and Casimir Carite, of the city of New Orleans, on the 23d day of September, 1869, per act passed before Charles Victor Foulon, not. pub., in the city of New Orleans, and recorded in this office on the 1st October, 1869, and finally assumed by Casimir Carite, of the parish of St. James, on the 30th December, 1872, per act before C. V. Foulon, not. pub., New Orleans, and duly recorded on the 31st December, 1872.

2°. The conventional mortgage granted by the firm of Copponex & Co., composed of Claude Louis Copponex, of the parish of St. James, Jean Bernard Moulor and Casimir Carite, both of the city of New Orleans, on the 23d September, 1869, in favor of J. B. Clément, on the whole of the above-described plantation, per act before C. V. Foulon, not. pub., in the city of New Orleans, to secure the sum of thirty-eight thousand two hundred and thirty-six dollars, represented by four notes of said partnership under date of said act subscribed by Copponex &
Co., and by them endorsed for the sum of $9,559, each payable
139 at the Bank of America, in the city of New Orleans, bearing interest at the rate of 8 % per annum from the 1st day of September, 1869, until paid, which mortgage stands partially erased to the extent of nine thousand five hundred and fifty-nine dollars on presentation of the note due September first, 1870. The payment of the other three outstanding notes, remaining due on the 1st September, 1871, 1872, and 1873, was assumed by Casimir Carite on the 30th December, 1872, as per act passed before C. V. Foulon, not. pub., in New Orleans.

3°. The conventional mortgage granted by Casimir Carite, in favor of Jean Bernard Moulor, on the 30th day of December, 1872, as per act passed before C. V. Foulon, not. pub., in the city of New Orleans, duly recorded in this office, on the 31st December, 1872, to secure the sum of $55,000 *dollars*, represented by eleven promissory notes by him subscribed, drawn to his own order and by him endorsed under
date of said act, each for the sum of five thousand dollars, bear-
140 ing interest at 8 % per annum from their respective date, to wit, three of said notes payable one year after date; two other notes in two years; two other notes in three years; two others in four years; and the two last notes payable five years after date, and also attorneys' fees at 5 % in case of legal proceedings for the recovery of the amounts of said notes or for any other part thereof, which mortgage affects the whole of the above-described property, with vendor's privilege. Recorder's office, parish of St. James, this 4th January, 1873.

[SEAL.] (Signed) LOUIS DUGAS, *Recorder*.

(Endorsed:) U. S. circuit court. No. 8041. Filed Dec'r 29, 1876. Signed F. B. Vinot, d'y clerk. Exhibit N. No. 8162. U. S. cir. court. Filed April 5, 1877. F. B. Vinot, d'y clerk.

Exhibit O.—Filed April 5, 1877.

No. 85.

UNITED STATES OF AMERICA,
District of Louisiana:

141 Whereas I, Stephen B. Packard, marshal of the United States for the district of Louisiana, by virtue of a writ of seizure and sale at the suit of Jean Baptiste Clément vs. Casimir Carite, No. 6916 of the docket of the cirruit court of the United States, fifth judicial circuit and district of Louisiana, to me directed by the said

honorable the circuit court in the aforesaid and titled suit, after having fulfilled and complied with all the previous requisites, I did seize and take into my possession the following described property, to wit:

A certain tract of land or plantation established as a sugar estate, situate in the parish of St. James, in this State, on the left bank of the river Mississippi, about sixty-six miles above the city of New Orleans, consisting—

First. Twelve and two-thirds arpents more or less front on the river, on a depth of eighty arpents, bounded heretofore above by the property of J. P. Bingay, and below by that of Messrs. Bruce, Seddon and Wilkins, and now bounded above by the property of Mr. Wood or assigns,
142 and below by that of Mr. Morson or assigns, and together with the sugar-house, engines, and other buildings and improvements thereon, and thereunto belonging, without any exception or reservation, as well as all the mules, carts, agricultural implements, and all immovables by destination attached to the said plantation for the cultivation, working, and improving the same, without any exception whatever.

Second. Four hundred and sixty-four shares, of one hundred dollars each, in the capital stock of the Citizens' Bank of Louisiana, being the remnant of four hundred and ninety-seven shares, from which thirty-three shares have been set apart by said bank and constituted cash stock, in conformity with an act of the legislature of this State entitled "An act to authorize the Citizens' Bank of Louisiana to convert shares secured by mortgage into cash shares, approved on the 25th day of April, 1853.

Third. The west half of section No. 46, in township 11, east of
143 the Mississippi River, range 4, east, in the district of Louisiana, of lands subject to sale in the city of New Orleans, containing three hundred and seventeen $\frac{50}{100}$ acres.

Fourth. A tract of land adjoining a part of the rear of plantation above described, being the section No. 45, in township 11, range 4 east, on the east bank of the Mississippi River; containing six hundred and forty $\frac{50}{100}$ acres, being the same property acquired by the said Casimir Carite from the following sources:

1°. By purchase from J. B. Clement, made by the planting partnership of Copponex & Co., composed of Louis C. Copponex, J. B. Moulor and C. Carite, by act before C. V. Foulon, on the 22d of September, 1869.

2°. By purchase made by J. B. Moulor and C. Carite of the interest of L. C. Copponex, on the 11th of January, 1871, by act before Louis Dugas, recorder of St. James Parish.

3°. By purchase made by C. Carite of J. B. Moulor, as per act before C. V. Foulon, notary in New Orleans, on the 30th December, 1872.

144 And after having given due notice to the said defendant of the said seizure, in the manner pointed out by law, and having notified the said defendant to divide the property according, and having placed a keeper on the said property, and having taken the said property into my possession, I advertised the said before-described property for sale, after the expiration of the legal delay from the time of said notice, to wit:

On Wednesday, February the 26th, 1873, by advertisements, composed in English, announcing the sale to take place at the court-house, in the parish of St. James, on Saturday, April the 5th, 1873, at 11 o'clock a. m. Said advertisements were inserted and published in

English in the St. James Sentinel, the official paper of the parish of St. James, published at the Convent in the parish of St. James, from the said 26th day of February, 1873, to the day of sale, in each and every issue of said official paper during said time, being full thirty days from the date of the first notice given in said newspaper.

145 Said advertisements were inserted and published in said official journal on February 26th, 1873, March 5th, 12, 19, 26, 1873, and April 2nd, 1873.

And having moreover posted the said advertisement, and having further complied with and performed all the additional previous legal requisites, and after the said property having been duly appraised according to a plan and survey thereof submitted to me by the defendant, subdividing the same according to law, which plan is annexed and marked by me "Ne varietur" to identify it herewith, I did expose the said property for public sale according to law, at the said court-house, in the parish of St. James, on the said Saturday, April 5th, 1873, at 11 o'clock a. m.

And at the same time and place of sale I did announce in a loud and audible voice the terms and conditions of sale hereinafter expressed and specified, and did read verbatim and in a loud and audible voice the certificate of the recorder of the parish of St. James, deliv-

146 ered on the day of sale, by which certificate it appears that there are no other mortgages standing in the name of said defendant and recorded against said before-described property than the following, to wit:

1°. A mortgage on the property hereinbefore firstly described in favor of the Citizens' Bank of Louisiana, as per act before L. M. Taney, on the 16th day of August, 1834, to secure six hundred shares of the capital stock of said bank and any sums of money advanced thereunder, now reduced to four hundred and sixty-four shares, assumed by J. B. Clément, on the 4th December, 1865, and assumed by C. Carite, by act before C. V. Foulon, not. pub., on the 30th day of December, 1872, by which act the said Carite assumed the payment of five thousand five hundred and seventy-three dollars, due to the Citizens' Bank, being the balance of the stock-note of said bank, and payable June 1st, 1873.

2°. The conventional mortgage granted by the firm of Copponex & Co., composed of J. B. Moulor, C. Copponex and C. Carite, in favor of J. B. Clément, on the whole of the above-described property, per

147 act before C. V. Foulon, notary, in New Orleans, on the 2d September, 1869, recorded on the 1st day of October, 1869, to secure the payment of four promissory notes, drawn by the said firm of Copponex & Co., each for the sum of $9,559, payable at the Bank of America, in New Orleans, on the first day of September, 1870, 1871, 1872 and 1873, with eight per cent. interest per annum from date until paid, and five per cent. attorney's fees, the mortgage having been cancelled up to the amount of $9,559, by presentation of the note due 1st of September, 1870.

3°. The conventional mortgage granted by C. Carite in favor of J. L. Moulor, per act before C. B. Foulon, notary, to secure the sum of $55,000, represented by eleven notes, under date of said act, for the sum of $5,000.00 each, bearing eight per cent. interest per annum from date of said act, and payable as follows: Three in one year, two in two years, two in three years, two in four years, and the last two in four years, along with five per cent. attorneys' fees in case of suit.

4°. The lien and privilege on ten mules, in favor of J. Eliot,

148 for the sum of two thousand two hundred and fifty dollars, due by Messrs. Moulor and Carite, recorded January 6, 1873.

5°. The privilege in favor of Eustis and Bourgeois for $371.88, against Moulor and Carite, recorded January 6, 1873.

6°. The privilege in favor of R. Rousselot for the sum of $2,941.55, recorded January 13, 1873.

7°. The recording of the protest of a note for $2,150.00, drawn by Moulor & Carite on the 17th day of October, 1872, due January 1st, 1873, in favor of Messrs. Neal & McIntyre, recorded on the 30th of January, 1873.

8°. The privilege in favor of L. Granderry for $254, recorded February 13th, 1873, as will appear by duplicate original of said certificate of mortgage annexed as part of this deed, and marked by me "Ne varietur," to identify it with this deed.

When Jean Baptiste Clément, a resident of France, through Antoine C. Tremoulet, agent, being the highest bidder, each and every lot, or portion of said property, as hereinbefore described in the plan
149 hereinbefore annexed, was adjudicated to the said Jean Baptiste Clément for the price of each and every lot, as follows:

Lot No. 1 @	$14,126 00
" 2 "	3,333 40
3 "	366 40
4 "	366 40
5 "	366 40
6 "	366 40
7 "	312 00
8 "	312 00
9 "	312 00
10 "	312 00
11 "	326 00
12 "	326 00
13 "	326 00
Section 46, No. 1 to 8 inclusive, @ $10 each	80 00
45, " 1 " 16 " @ $8 "	128 00
Contents of grocery store	26 67
Farming utensils	333 34
1,500 cords of wood	1,000 00
One buggy & wagon	33 34
Seven oxen, six cows & calves	166 67
Twelve sheep	20 00
One lot of corn	100 00
29 mules, one mare & 2 colts	1,346 70
Making a total of twenty-four thousand three hundred & eighty-five $\frac{70}{100}$ dollars	$24,385 70

being over two-thirds the total appraisement, which amounted to $36,496.00.

150 Terms cash on the day of sale, the purchaser to assume a mortgage in favor of the Citizens' Bank of Louisiana for the sum of five thousand five hundred and seventy-three dollars, due the 1st day of June, 1873.

To assume a note secured by vendor's privilege and special mortgage on the property above described for $9,559.00, with 8% interest from the 1st day of September, 1869, until paid, falling due on the 1st day of September, 1873.

Which price the said purchaser has settled with me, marshal, in accordance with said terms, as follows:

Paid cash marshal's costs and expenses	$477 53
Paid clerk	20 50
Paid surveyor for survey & plan	125 00
Paid printer for advertisement	75 00
Total	$697 53

Retained in his hands the following amounts, which the purchaser binds himself to pay:

Recorder of St. James Parish	$30 00
Paid taxes	913 45
Making a total of $1,640.98 paid and	$1,640 98

151 to be paid in costs, and for the balance of said price, viz., the sum of $22,944.72, the said purchaser has paid as follows:

First. By assuming the mortgage debt in favor of the Citizens' Bank of Louisiana, due on the 1st day of June, 1873, amounting to the sum of $5,573.00, which mortgage was originally consented by act before Louis M. Taney, then parish judge in and for the parish of St. James, on the 16th of August, 1834.

And in evidence of the said assumption of the said mortgage debt, the said Jean Baptiste Clément has furnished a stock-note dated this day, for the sum of $5,573.00, being the amount of credit as a stockholder of 497 shares of the said bank, now reduced to 464 shares, which note is made payable at the banking-house of the Citizens' Bank, in New Orleans, on the 1st day of June, 1873, fixed or renewable according to the provisions of the charter of said bank, which note has been paraphed "Ne varietur" to identify it with an original act of mortgage passed before L. M. Tanney, parish judge of the parish of St. James, on the 11th of August, 1834, and with this assumption,

152 which said note so furnished has been delivered by me to the Citizens' Bank of Louisiana.

And for the remainder of said price, amounting to the sum of $17,371.72, the said Jean Baptiste Clément has settled, retaining in his hands the amount to satisfy the vendor's claim held by him, as follows:

Note for $9,559, with 8% interest from the 15th day of January, 1873, to the 5th day of April, 1873, amounting to $9,771.42.

Note for $9,559.00, with 8% interest from the 1st of September, 1869, to the 5th day of April, 1873, amounting to $12,311.99.

Note for $9,559.00, with interest from September 1st, 1869, to April 5th, 1873, amounting to $12,311.99.

Five per cent. attorney's fees, as fixed by the act of mortgage, amounting to $1,719.77, were likewise retained by the purchaser as part of this mortgage claim.

Total of purchaser's mortgage and vendor's claim, as by writ and claim	$36,115 17
Balance of bid retained in part payment	17,371 72

153 Balance due purchaser and plaintiff, as per mortgage and vendor's claim, after deducting the amount retained by him from his purchase 18,743 45

Now, therefore, know all men by these presents that I, the said marshal, in consideration of the premises, and by virtue of the laws of the United States and of the State of Louisiana, in such cases made and provided, do sell and transfer the aforesaid described property to the said Jean Baptiste Clément, and all the right and title which the said defendant had in or to the said before-described property, to have and to hold the same to his the said Jean Baptiste Clément and his heirs and assigns forever.

In witness whereof I have hereunto signed my name, at New Orleans, in the State of Louisiana, the fifth day of April, in the year of our Lord one thousand eight hundred and seventy-three, and the ninety-seventh year of the Independence of the United States of America.

(Signed) S. B. PACKARD,
U. S. Marshal.

Signed in the presence of the following competent witnesses:
154 JOHN FAHY.
J. B. STOCKTON.

Recorded at the parish of St. James this 28th of May, 1873.
(Signed) LOUIS DUGAS, *Recorder.*

STATE OF LOUISIANA,
Parish of St. James:

I, the undersigned recorder, do hereby certify that the above and foregoing U. S. marshal's deed is a true and correct copy, as recorded in conveyance book, folios Nos. 220 et seq.

Parish of St. James, recorder's office, this 17th day of June, A. D. 1876.

[SEAL.] (Signed) LOUIS DUGAS,
Recorder.

(Endorsed:) U. S. marshal's deed. J. B. Clément vs. Casimir Carite. U. S. circuit court. No. 8041. Filed Dec'r 29, '76. F. B. Vinot, d'y clerk. Exhibit O. No. 8162. U. S. circuit court. Filed April 5th, 1877. F. B. Vinot, d'y cl'k.

Exhibit P.—Filed April 5th, 1877.

155 To the honorable the parish court of the parish of St. James, State of Louisiana:

The petition of Célestine Cuny, wife, of age, of Casimir Carite, residing in the parish of St. James, aforesaid, respectfully represents that petitioner contracted marriage with her said husband in the city of New Orleans, on the 23d day of April, 1863, and that their domicile has been established in this parish since the beginning of the year 1870. Petitioner further represents that, owing to a series of crushing misfortunes, her husband, who was heretofore possessed of considerable means and property, has lately become hopelessly involved in debt, for the satisfaction of which all his property is now being attached, seized, and disposed of by his numerous creditors. That all of her husband's property will not be sufficient to pay and satisfy the enormous debt which is due by him. That, in consequence of the above-recited circumstances, petitioner fears and believes that the earnings of her
156 separate industry may be seized by her husband's creditors, and thus be lost to herself and children; for which reasons petitioner is desirous of being separated in property from her said husband.

Wherefore, the premises considered, your petitioner prays for an order authorizing her to institute this suit against her husband for separation of property, and she further prays for citation according to law on her said husband, Casimir Carite, and after due proceedings and legal delays for judgment in her favor for separation of property from her said husband, and dissolving the community of acquets and gains heretofore existing between her and her said husband, and condemning him to pay the costs of these proceedings.

And she further prays for all general, legal, and equitable relief, and as in duty bound.

(Signed) LEGENDRE & POCHÉ,
Of Counsel.

Order.

As within prayed, it is ordered that Célestine Cuny be authorized to institute her action for separation of property from her
157 husband, Casimir Carite.

At chambers, parish of St. James, this 13th of February, 1873.

(Signed) S. F. SISKROU,
Judge, Parish Court, St. James.

A true copy.

Clerk's office, parish of St. James, this 17th day of June, A. D. 1875.

[SEAL.] (Signed.) H. COHEN, *clerk.*

(Endorsed:) No. 125. Célestine Cuny vs. Casimir Carite, her husband. Petition filed Feb. 13, '73. U. S. circuit court, No. 8041. Filed Dec'r 29, '76. F. B. Vinot, d'y cl'k. No. 8162. U. S. circuit court. Filed April 5, 1877. F. B. Vinot, d'y clerk. Exhibit P.

Exhibit Q.—Filed April 5, 1877.

State of Louisiana, parish court, parish of St. James.

CÉLESTINE CUNY
vs.
CASIMIR CARITE, HER HUSBAND.

The within case came up for trial this day, according to pre-
158 vious assignment, and the court, after hearing the evidence and argument of counsel, considering the law and the evidence as being in favor of plaintiff and against the defendant,

It is therefore ordered, adjudged and decreed, that plaintiff, Célestine Cuny, wife of Casimir Carite, do have and recover judgment against her said husband, separating her in property from him, dissolving the community of acquets and gains heretofore existing between her and her said husband, and condemning the said Casimir Carité to pay the costs of this suit. Rendered, read, and signed in open court at the parish of St. James this thirteenth of March, 1873.

(Signed) S. F. SISKROU,
Judge Parish Court, St. James.

STATE OF LOUISIANA,
Parish of St. James, ss:

I, the undersigned, Henry Cohen, clerk of the 4th jud. dist. court and ex-officio clerk of the parish court of the State and parish aforesaid, do hereby certify that the above and foregoing judgment is

a true and correct copy of the original on file in this office
159 in the suit wherein Mrs. Célestine Cuny is plaintiff and Casimir Carite is defendant.

Clerk's office, parish of St. James, this 16th of June, A. D. 1876.

[SEAL.] (Signed) H. COHEN, *Clerk*.

(Endorsed:) No. 125. Célestine Cuny vs. Casimir Carite, her husband. Judgment. U. S. cir. court. No. 8041. Filed Dec'r 29, '76. F. B. Vinot, d'y clerk. No. 8162. U. S. circuit court. Exhibit Q. Filed April 5, 1877. F. B. Vinot, d'y clerk.

Exhibit R.—Filed April 5th, 1877.

No. 314.

UNITED STATES OF AMERICA,
State of Louisiana, City of New Orleans:

Be it known that on this twenty-second day of the month of May, in the year of our Lord one thousand eight hundred and seventy-three, and of the Independence of the United States of America the ninety-seventh, before me, Charles Theodore Soniat, a notary public, duly commissioned and qualified for the parish and city of New Orleans,
160 State of Louisiana, and in the presence of the witnesses hereafter named and undersigned, personally came and appeared:

1°. Antoine C. Tremoulet, herein acting as the duly qualified agent and attorney in fact of Jean Baptiste Clément, a citizen and resident of France, as per act of procuration annexed to an act before Chas. V. Foulon, notary, in this city, on the 22d day of September, 1869.

2°. Célestine Cuny, wife separate in property of Casimir Carite, a resident of the parish of St. James, as per judgment rendered by the parish court, parish of St. James, under the No. 125 of the docket thereof, in the suit entitled Célestine Cuny vs. Casimir Carite, her husband, herein fully authorized and assisted by the said Casimir Carite, her husband.

The said appearer on the first part declared that he does by these presents, sell, transfer, assign, and set over and deliver, with all legal warranties and with substitution and subrogation, to all his rights and actions in warranty, the following-described property, to wit,
161 unto Célestine Cuny, wife separate in property of Casimir Carite, here present, with her said husband, and authorized as aforesaid, acknowledging possession, and accepting delivery thereof, and purchasing for herself, her heirs, and assigns forever in virtue thereof:

A certain tract of land or plantation established as a sugar estate, situated in the parish of St. James, on the left bank of the Mississippi River, at about sixty-six miles above the city of New Orleans, consisting—

1°. Of twelve and two-thirds arpents, more or less, front on the river on a depth of eighty arpents, heretofore bounded by the property of J. B. Bingay, and below by that of Messrs. Bruce, Sheddon, and Wilkins, and now bounded above by the property of Mr. Wood or assigns, and below by that of Morson or assigns.

2°. Four hundred and sixty-four shares, of one hundred dollars each, in the capital stock of the Citizens' Bank of Louisiana, being the remnant of four hundred and ninety-seven shares, from which thirty-three shares have been set apart by said bank and constituted
162 cash stock, in conformity with an act of the legislature of this

State entitled "An act to authorize the Citizens' Bank of Louisiana to convert shares secured by mortgage into cash shares," approved the 25th of April, 1853.

3°. The west half of section No. 46, in township No. 11, east of the Mississippi River, range 4 east, in the district of Sands subject to sale in the city of New Orleans, containing three hundred and seventeen $\frac{51}{100}$ acres.

4° A tract of land adjoining a part of the rear of the plantation above described, being the section 45 in township No. 11, range 4 east, on the east bank of the Mississippi River, containing six hundred and forty $\frac{50}{100}$ acres.

Being the same property all of which above described was acquired by the present vendor by a sale made by the United States marshal for the district of Louisiana, in the suit entitled "J. B. Clément vs. Casimir Carite, No. 6916 of the docket of said circuit court of the United States, fifth circuit and district of Louisiana.

163 The present sale is made in consideration of the price of forty-four thousand four hundred and sixty-one $\frac{14}{100}$ dollars ($44,461.14) which the said purchaser has paid or settled, as follows:

1°. By paying in cash four thousand one hundred and eighty-eight $\frac{14}{100}$ dollars	4,188 14
The receipt whereof the present vendor hereby acknowledges.	
2°. By assuming a mortgage in favor of the Citizens' Bank, resting upon part of the property herein sold, amounting to five thousand five hundred and seventy-three dollars	5,573 00

The property upon which this mortgage rests is described in a plan hereto annexed, for this and another purpose to be hereinafter stated. And as evidence of said assumption of said mortgage due the Citizens' Bank which becomes due on the 1st of June, 1873, amounting to the sum of five thousand five hundred and seventy-three dollars, which mortgage was originally consented by act before Louis

164	Amount brought forward	$9,761 14

M. Taney, then parish judge in and for the parish of St. James, on the 16th of August, 1834, the said Mrs. Célestine Cuny has furnished a stock-note, with the authorization and assistance of her husband, dated this day, for the sum of $5,573.00, being the amount of credit as a stockholder of four hundred and ninety-seven shares of said bank, now reduced to four hundred and fifty-four shares, which note is made payable at the banking-house of the Citizens' Bank in New Orleans, on the first day of June, 1873, fixed or renewable according to the pro'sions of the charter of said bank, which note has been paraphed "Ne varietur" by me, notary, to identify it with an original act of mortgage passed before Louis M. Taney, parish judge of the parish of St. James, on the 16th of August, 1834, and with this assumption, which said note so furnished, has by me been delivered to the Citizens' Bank of Louisiana. The said purchaser binds himself to pay punctually at their re-

165	Amount brought forward	$9,761 14

spective maturities all installments of said assumed debt as they fall due, and, moreover, expressly assuming the amount of a certain call of stock made by the Citizens' Bank not long since, and which is now due and unpaid. And for the remainder of said price, say the sum of thirty-four thousand seven hundred dollars ($34,700,00), the said purchaser has furnished her several promissory notes, amounting to six in number, drawn by the said Mrs. Celestine Cuny, wife, separate in property with her said husband Casimir Carite, to her own order and by her endorsed in blank, both the said drawing and endorsement being with the assistance of her husband Casimir Carite, who authorizes her.

1°. One, dated New Orleans, May the twenty-second, 1873, for the sum of seven thousand five hundred dollars, payable on the 15th December, 1873	$7,500 00
166 Amount brought forward	$17,261 14
2°. Two notes of four thousand two hundred and fifty dollars each, dated New Orleans, 22d May, 1873, due December fifteenth, 1874	$8,500 00
3°. One note dated New Orleans, May the 22d, 1873, due December, 1875, for the sum of eight thousand five hundred dollars	$8,500 00
4°. One note for the sum of eight thousand five hundred dollars, dated New Orleans, May 22d, 1873, and payable December 15th, 1876	$8,500 00
5°. One note for the sum of seventeen hundred dollars, dated New Orleans, May the 22nd, 1873, payable on the twentieth of November, 1874	$1,700 00
Total	$44,466 14

All bearing eight per cent. interest from date until paid.

The property hereinabove, for the present price sold, includes all the buildings and improvements thereon, as well as all the movables and immovables by destination, agricultural implements, situated or attached on or to said property, as well as twenty-nine mules thereon, one mare, two colts, seven oxen, six cows and calves, and the cane and crop and appurtenances of the said plantation.

167 The purchaser declaring that she does not hold the seller responsible for any claim which may exist in favor of the builder of a certain stable on the property, if any such claim exists, and the seller expressly declares that he does not by the sale of the buildings and improvements make himself liable in any way for any such claims, either directly or indirectly.

Now, therefore, in order to secure the punctual payment of all said promissory notes, all of which bear interest of eight per cent. from date until paid, in capital and interest, together with attorney's fees, insurance, damages, or otherwise, as well as all other costs, as hereinafter mentioned and above described, the said Célestine Cuny, wife, separate in property with her husband, and by his assistance and authorization hereby consents vendor's privilege and special mortgage on the above-described real estate, binding himself not to encumber or alienate the hereinabove-described property to the prejudice hereof, the foregoing mortgage to affect all the said real estate and all movables and immovables hereunto attached.

168 The said property to be so affected, vendor's privilege and special mortgage, until the full payment of said notes with interest and all sums above and hereinunder described.

The purchaser binds himself to keep the premises insured to the extent of twenty-five thousand dollars, divided as follows: $15,000.00 on the sugar-house, $4,000 on the brick dwelling-house, $3,000 on the frame sugar-house, and $3,000 on the stable, and to transfer unto the present vendor or any other holder or holders of the said notes, or part thereof, the said policy of insurance, authorizing the said holder or holders in default in her so doing to insure the same and charge her with the premiums paid, which amount to be secured by mortgage as above mentioned.

And in the event of suit to collect the said note or notes, the fees of the attorney to whom the same is confided for collection or suit after maturity, which fees are hereby fixed at five per cent. on the amount sued for, the purchaser binds herself to pay, and the same shall be and now is secured by special mortgage on the above-described property, as above stated,

169 And in the event of any suit or suits to collect said note or notes, and the taking of any appeal by the defendant, all such damages as may be awarded for a frivolous appeal, as well as all damages which may be allowed on the dissolution of any injunction to retard or impede the collection of said notes, the purchaser hereby declares are secured by special mortgage, and as above stated.

Now, the notes hereinabove described have been paraphed "Ne varietur" by me, notary, to identify them herewith, and were delivered to the said Antoine C. Tremoulet, agent as aforesaid, who acknowledges receipt thereof.

And the parties hereto above mentioned have agreed to the following conditions and stipulations as a penalty to secure the further enforcement of all the obligations above mentioned:

1°. The failure to pay any note at maturity to operate and make the whole become due and exigible without regard to the maturity above fixed.

2°. The purchaser having bound herself to pay the instalments
170 due the Citizens' Bank, any failure to pay the same when due, if the bank takes judicial process to collect the said instalments, shall, ipso facto, make all the notes hereinabove given and described mature at once.

3°. The purchaser to pay all taxes due upon said property annually, and to produce proof thereof when she pays the instalments due the bank for each and every year; otherwise the failure so to do for two successive years to operate to maturity of the notes hereinabove due and described.

4°. The purchaser to have at the maturity of the note for eight thousand five hundred dollars, due December 15th, 1875, the right to renew the same for one year; provided, on the said 15th of December, 1875, she pays all interest due on said note up to the 15th of December, 1875, and all interest due on the note falling due in December, 1876, up to the 15th of December, 1875; in other words, she to pay, if she wishes to renew the note maturing in 1875, all the interest thereon, as well as all the interest accrued on the note falling due in 1876, up to the 15th of December, 1875.

171 The purchaser also to have the right to renew for one year the note falling due in 1876, provided all the other notes have been

paid, and provided she pays all interest up to date of renewal in advance.

The purchaser declares that hereto annexed is a plan of the property herein sold, by which the same is divided into lots of not more than fifty nor less than ten acres; that in order to carry out the article of the constitution of this State and the laws thereunder regarding the division of property at judicial sale she hereby elects said plan and said division as the one by which the said property shall be sold in the event of any judicial process of execution growing out of this act. That she waives the necessity of any notification to her to divide the property, elects the division contained in the said plan and fixes it herein as a part of the consideration of this sale as the basis of any sale under execution against her, and designates the lots by said plan as her division for the purposes of sale.

172 The property to be sold in accordance with the numbers of said lots. This not to bind the seller unless he deems proper at the date of execution, he reserving his right to consider the whole as without *the whole as without* effect as regards himself if he deems proper.

The purchaser binds herself to consign to the present seller, A. C. Tremoulet, agent, a sufficient amount of the first sugar made on the said plantation this year to pay the note falling due in December, 1873.

The taxes, as per the marshal's deed under date of the 5th of April last past, have all been paid, and the parties to this act are satisfied that such is the case.

The parties to this act are satisfied that there are no mortgages standing against said above-described property, and dispense with the production of the certificate from the recorder of mortgages, and also that of non-alienation, and exonerate me, notary, from any and all responsibility in the premises, and the seller binds himself to pro-

173 duce both certificates within twenty days from date hereof.

Thus done and passed at my office the day, month and year first above mentioned, at New Orleans, in the presence of Messrs. Edward J. de Armas and Charles F. Claiborne, competent witnesses, who have signed these presents with appearers and me, notary, after reading the whole.

(Original signed) CÉLESTINE CARITE,
" " C'IR CARITE,
" " Per pro J. B. CLÉMENT.
" " A. C. TREMOULET.
" " EDWARD J. DE ARMAS.
" " CHAS. F. CLAIBORNE.
" " CHARLES T. SONIAT,
Not. Pub.

A true copy from the original extant in the records of my office. New Orleans, May 24th, 1873.

(Signed) CHAS. T. SONIAT,
Not. Pub.

I hereby certify the above and foregoing to be a true copy of the foregoing act recorded in this office, in books of conveyances, No. 86, folo. 227 et. seq., & mortgages "M" No. 314, folo. 602 et. seq.

Witness my official seal and signature, parish of St. James, this 17th of June, 1876.

[SEAL.] (Signed) LOUIS DUGAS, *Recorder.*

174 (Endorsed:) U. S. circuit court, No. 8041. Filed Dec'r 29, '76. F. B. Vinot, d'y cl'k. No. 8162. U. S. circuit court. Exhibit R. Filed April 5, 1877. F. B. Vinot, d'y clerk.

Proceedings in suit No. 6916, made part of bill of complaint.—Filed April 5th, 1877.

Circuit court of the U. S. for the district of Louisiana, in the fifth circuit, in chancery.

JEAN BAPTISTE CLÉMENT
vs.
CASIMIR CARITE. } No. 6916.

To the judges of the circuit court of the United States for the district of Louisiana, in the fifth circuit:

Jean Baptiste Clément, a citizen and resident of the Republic of France, brings this his bill against Casimir Carite, a citizen of the State of Louisiana, residing in the parish of St. James, in said State, and thereupon your orator complains and says that the afore-
175 said Casimir Carite is justly, truly, and legally indebted unto your orator in the following sums, with vendor's privilege and special mortgage, as hereinafter enumerated and described:

1°. Nine thousand five hundred and fifty-nine dollars, with 8 per centum per annum interest thereon from the 15th day of January, 1873, until paid.

2°. Nine thousand five hundred and fifty-nine dollars ($9,559), with 8 per centum per annum thereon from the 1st day of September, 1869, until paid.

Now, in order to establish fully the said indebtedness in capital and in interest, and to minister authentic evidence of the same, your orator shews:

That on the 18th day of September, 1869, by act before C. V. Foulon, a notary public, duly qualified and commissioned, Claude Louis Copponex, Jean Bernard Moulor dit Jean Louis Moulor, and Casimer Carite formed a copartnership for the purpose, under the name and style of Copponex & Co., of purchasing and carrying on a sugar
176 plantation, as the whole will more fully appear by a copy of said act annexed and forming part of this bill, marked "A."

Your orator further very humbly sheweth:

That on the 22d day of September, 1869, by act before C. V. Foulon, notary, he sold to the partnership which had been thus formed under the name and style of Copponex & Co. the following-described property, viz:

1st. A certain tract of land or plantation established as a sugar estate, situated in the parish of St. James, in this State, on the left bank of the river Mississippi, at about sixty-six miles above the city of New Orleans, consisting—1st. Of twelve arpents and two-thirds, more or less, front on the river, on a depth of eighty arpents, bounded heretofore above by the property of Dr. J. P. Bingay, and below by that of Messrs. Bruce, Seddon, and Wilkins, and now bounded above by the property of Mr. Wood or assigns, and below by that of Mr. Morson or assigns; together with the sugar-house, engine, and other buildings and improvements thereunto belonging, without any exception or reservation.

177 2d. Four hundred and sixty-four (464) shares, of one hundred dollars each, in the capital stock of the Citizens' Bank of Louisi-

ana, being the remnant of four hundred and ninety-seven shares, from which thirty-three shares have been set apart by said bank to constitute its cash stock, in conformity with an act of the legislature of this State entitled "An act to authorize the Citizens' Bank of Louisiana to convert shares secured by mortgage into cash shares, approved on the 25th day of April, 1853.

2dly. The west half of section No. forty-six, in township No. eleven, east of the Mississippi River, range four east, in the district of lands subject to sale in the city of New Orleans, containing three hundred and seventeen $\frac{50}{100}$ acres.

3dly. A tract of land adjoining a part of the rear of the plantation above described, being the section No. forty-five, in the township No. eleven, range No. four east, in the district southeast, on the east bank of the river Mississippi, containing six hundred and forty-five $\frac{50}{100}$ acres.

178 Your orator further shows that the foregoing sale was made for the price of fifty-five thousand (55,000) dollars; ten thousand dollars whereof were paid cash, and six thousand seven hundred and sixty-four (6,764.00) were assumed, being the then amount of a mortgage or stock loan due the Citizens' Bank of Louisiana, and for the remainder of said price, viz, thirty-eight thousand two hundred and thirty-six ($38,236) dollars, the said partnership of Copponex & Co. furnished to your orator four several promissory notes, drawn by said partnership to its own order, and by it endorsed in blank, dated New Orleans, Sept'r 22d, 1869, bearing interest at the rate of eight per cent. per annum from the 1st day of September, 1869, until final payment, and payable respectively on the 1st day of September, 1870, 1871, 1872, and 1873, each of said four notes being for the sum of nine thousand five hundred and fifty nine dollars ($9,559.00), and payable in the Bank of America
179 in this city, which four notes were paraphed "Ne varietur," to identify them with said act.

Now your orator further, with respects, shews that in order to secure the payment of said notes in capital, interest, and costs, along with five per centum attorney's fees on the amount to be sued for, the said Copponex & Co. did specially mortgage the real estate hereinabove described, the said mortgage importing confession of judgment and containing the clause de non alienando, as the whole will more fully and authentically appear by copy of said act and certificate of registry thereof, annexed to this bill as part and marked B.

Your orator further shews that he is the holder and owner, 1st, of one of the notes drawn by Copponex & Co. as aforesaid, dated New Orleans, Sept'r 22d, 1869, for the sum of nine thousand five hundred and fifty-nine dollars, payable on the 1st day of September, 1871, and bearing eight per cent. per annum from the first day of September, 1869, until paid; that all interest on said note having been paid up to the
180 15th of January, 1873, as will appear by said note and paraph thereon annexed to this bill and marked C, the same being part hereof; 2d, one of said notes of like date and tenor as the foregoing for a like amount due 1st Sept'r, 1877, with like interest upon which interest is due from the 1st of September, 1869, as will more fully and authentically appear by said note with paraph thereon annexed to this bill as part and marked D; 3d, one of said notes in all respects similar to the foregoing, except that it falls due on the 1st of September, 1873, and upon which interest is due from the 1st of September, 1869, until paid, as will more fully appear by said note, annexed as part hereof and marked E.

Your orator further shews that by act before L. Dugas, recorder, in and for the parish of St. James, on the 11th of January, 1871, Claude Louis Copponex, one of the original partners of the Copponex & Co., sold his undivided one-third interest in the property above described to Jean Bernard Moulor dit Jean Louis Moulor, and Casimir
181 Carite, who assumed the payment of the Citizens' Bank mortgage and mortgage securing the payment of the notes hereinabove more fully described, as the whole will more fully appear by a copy of said act annexed as part of this bill and marked P.

Your orator further shews that the property thus acquired became the property of the partnership under the name of Moulor and Carite composed of Jean Bernard Moulor dit Jean Louis Moulor and Casimir Carite, as will appear by an act passed before C. V. Foulon, notary, on the 11th day of February, 1871, a copy of which is annexed to this bill as part and which is marked G.

That on the 30th day of December, 1872, by act before C. V. Foulon, notary public, the said partnership of Moulor and Carite was dissolved, and Casimir Carite became the owner of the whole of said property, he assuming the original Citizens' Bank mortgage, and the notes and mortgage in the original sale of Copponex & Co. more particularly described as the same will more fully appear by a copy of said act annexed
182 to this bill as part and marked H.

Your orator avers amicable demand, and neglect to pay on the part of defendant, all of which neglect to pay and refusal is contrary to equity and good conscience, and tends to the manifest injury and wrong of your orator.

In consideration whereof, and forasmuch as your orator can only have adequate relief in the premises in this hon. court, where matters of this nature are properly cognizable and alienable, your orator prays:

That executory process herein issue as the law directs; that the marshal be directed to seize, advertise, and sell for cash, according to law, the property hereinabove and in the act hereto annexed more fully described, and from the proceeds thereof he pay your orator, with vendor's privilege as granted by law, and special mortgage is accorded by the acts annexed hereto, as part: 1°, nine thousand five hundred and fifty dollars, with 8 per centum per annum thereon from the
183 15th day of January, 1873, until paid; 2°, nine thousand five hundred and fifty-nine dollars, with 8 per centum per annum from the 1st day of September, 1869, until paid; five per cent. attorney's fees on the amount sued for, and costs; the whole with the vendor's privilege accorded by law and the mortgage granted by the acts hereinbefore annexed and according to law. The purchaser to assume the Citizens' Bank mortgage hereinbefore described, and the note for nine thousand five hundred and fifty-nine dollars, with 8 per cent. per annum thereon from September 1st, 1869, until paid, with the mortgage securing the same falling due on the 1st September, 1873; the whole according to law, and for general relief. And, as in duty bound, your orator will ever pray.

(Signed) EDWARD D. WHITE,
Solicitor for Complainant.

Order.

Let executory process issue as prayed for, and according to law.
February 10th, 1873.

(Signed) E. H. DURELL, *Judge.*

184 *Notice of seizure to defendant.*

Circuit court of the United States, fifth circuit, district of Louisiana.

JEAN BAPTISTE CLÉMENT
vs.
CASIMIR CARITE. } No. 6916.

To CASIMIR CARITE:

Take notice that payment is demanded of you, within three days from the service hereof, of the amount specified in the writ of seizure and sale granted on the accompanying bill of complaint, with interest and costs, and in default of payment within that delay the property referred to in said bill of complaint will be seized and sold according to law.

A further delay of one day for every twenty miles' distance from your domicil to this city, at which place this court is held, is allowed you by law.

Clerk's office, New Orleans, February 10th, 1873.

[SEAL OF COURT.] (Signed) F. B. VINOT, *Dy Clerk.*

185 *Marshal's return.*

Received Feb. 11, 1873, by the U. S. marshal, and on the same day, month, and year served a copy of within notice of order, seizure, and sale, and bill of complaint accompanying, on Casimir Carite, named herein, by handing the same to him in person.

New Orleans, Feb'r 13, 1873.

(Signed) S. W. REED,
Dy U. S. Marshal.

Writ of seizure and sale.

UNITED STATES OF AMERICA:

Circuit court of the United States.—Fifth judicial circuit and district of Louisiana.

JEAN BAPTISTE CLÉMENT
vs.
CASIMIR CARITE. } No. 6916.

The President of the United States to the marshal of the United States for the district of Louisiana, greeting:

You are hereby commanded to seize and sell, after legal demand, and according to law, the following-described property, to wit:

186 1°. A certain tract of land or plantation established as a sugar estate, situated in the parish of St. James, in this State, on the left bank of the river Mississippi, at about sixty-six miles above the city of New Orleans, consisting: 1st. Of twelve arpents and two-thirds, more or less front on the river, on a depth of eighty arpents, bounded heretofore above by the property of Doctor J. P. Bingay, and below by that of Messrs. Bruce, Seddon and Wilkins, and now bounded above by the property of Mr. Wood, or assigns, and below by that of Mr. Morson or assigns, together with the sugar-house, engine, and other buildings, and improvements thereunto belonging, without any exception or reservation.

2°. Four hundred and sixty-four shares, of one hundred dollars each, in the capital stock of the Citizens' Bank of Louisiana, being the remnant of four hundred and ninety-seven shares, from which thirty-three shares have been set apart by said bank to constitute its cash stock, in conformity with an act of the legislature of this State entitled
187 "An act to authorize the Citizens' Bank of Louisiana to convert shares secured by mortgage into cash shares," approved on the 25th day of April, 1853.

2°. The west half of section No. forty-six, in township No. eleven (east of the Mississippi River), range four east, in the district of lands subject to sale in the city of New Orleans, containing three hundred and seventeen $\frac{50}{100}$ acres.

3°. A tract of land adjoining a part of the rear of the plantation above described, being the section No. 45, in the township No. eleven, range No. four east, in the district southeast (on the east bank of the river Mississippi), containing six hundred and forty-five $\frac{50}{100}$ acres.

That the said described property be sold with vendor's lien, and privilege to satisfy the claim of the plaintiff, Jean Baptiste Clément, to wit:

1°. Nine thousand five hundred and fifty-nine dollars, with 8 per centum per annum thereon from the 15th day of January, 1873, until paid.

2°. Nine thousand five hundred and fifty-nine dollars, with 8
188 per centum per annum from the 1st day of September, 1869, until paid, five per centum attorneys' fees, on the amount sued for, and all costs.

And what you do in the premises you make due return thereof, together with this writ, to our said court according to law.

Witness the Hon. Salmon P. Chase, Chief Justice of the Supreme Court of the United States of America, at New Orleans, this 10th day of February, 1873.

[SEAL.] (Signed) F. B. VINOT,
Dy Clerk.

Marshal's return.

Received by United States marshal on the 11th day of February, 1873, and on the 12th day of the same month and year served notice of demand on Casimir Carite, the defendant, in person, and he having waived the legal delays, on the 13th of same month and year seized and took into my possession the plantation and property in the writ described, and having served notice of the said seizure according
189 to law upon the said defendant in person, in the city of New Orleans, and having notified him to divide the property according to law, I advertised the said property for sale in the St. James Sentinel, the official paper of the parish of St. James, published at the Convent post-office in St. James parish, Louisiana, as per advertisement annexed, and after having published the said advestisement in the said weekly paper during the space of thirty days, to wit, on Wednesday, February the 26th, 1873; Wednesday, April 2d, 1873; Wednesday, March 5th, 1873; Wednesday, March 12, 1873; Wednesday, March 19th, 1873; Wednesday, March 26, 1873; and on Wednesday, April 2d, 1873, and having posted the said sale as required by law, I did proceed on the day, date, and time mentioned by me in the above referred to and annexed advertisement to sell, after complying with all the requisites of law, the property by me seized and described

in this writ and in the annexed advertisement, and after complying as aforesaid with all legal requisites, both as to appraisement and adjudication the said property, the same was adjudicated by me
190 at public auction to Jean Baptiste Clément, a resident of France, through Antoine C. Tremoulet, agent, for the total sum of twenty-four thousand three hundred and eighty-five dollars and seventy cents, which was over two-thirds the appraisement thereof, and which price the said Jean Baptiste Clément has paid or settled with me, as follows:

Paid marshal's costs & disbursements	$477 53
Paid clerk's "	20 50
Paid surveyor for plan & survey	125 00
Paid printer for advertisement	75 00
Paid expense of running plantation during seizure	630 00
Total cash paid	$1,328 03

Retained the following sums which the seizing creditor is to pay at once, when demanded by the parties in interest:

Taxes, State & parish, due upon said property	913 45
Recorder of mortgages, parish St. James	30 00
	$943 45

making a total of two thousand two hundred and sventy-one dollars and forty-eight cents paid and to be paid in costs, and for the balance of said price the said purchaser has settled with me as follows,
191 the said balance being the sum of twenty-two thousand one hundred and fourteen dollars and twenty-two cents:

First, by assuming the mortgage debt in favor of the Citizens' Bank of Louisiana due on the first of June, 1873, amounting to the sum of five thousand five hundred and seventy-three dollars ($5,573), and for the remainder of said price amounting to the sum of sixteen thousand five hundred and forty-one dollars and twenty cents ($16,541.20), the said Jean Baptiste Clément has settled by retaining the amount as a credit on his mortgaged claim, as follows:

Note for nine thousand five hundred and fifty-nine dollars, with eight per centum per annum from the 15th of January, 1873, to the 5th of April, 1873, amounting in principal and interest to	$9,771 42
Second. Note for nine thousand five hundred and fifty-nine dollars, with interest at eight per cent. per annum from 1st September, 1869, to 5th April, 1873	12,311 99
Third. Note for a like amount, with like interest, amounting to	12,311 99
Total amount of plaintiff's claim	$34,395 40
192 To which amount, and in order to retain the same, he has added the five per cent. att'y's fees, amounting to	7,719 77
Total	36,115 17
Total retained by him in his hands as part payment thereof, as above mentioned, leaving a balance due him of	19,573 97

Annexed as part of this return will be found a copy of the notice of seizure, a copy of the notice to appoint appraisers, a copy of the oath by me administered *by me* to the said appraisers, a copy of the sworn appraisement by them made, a copy of a letter of defendant submitting plan, and advising me of the order in which he wished the property sold, as well as a statement by me of the amount in detail brought by the said property, the plan handed me as aforesaid being annexed as part of my deed of sale in this case.

(Signed) J. B. STOCKTON,
Dep'y U. S. Marshal.

Advertisement referred to in foregoing marshal's return.

JEAN BAPTISTE CLÉMENT
vs.
CASIMIR CARITE. } No. 6916.

193 United States circuit court, fifth circuit and district of Louisiana.

By virtue of a writ of seizure and sale to me directed by the honorable the circuit court of the United States, fifth judicial circuit, district of Louisiana, I will proceed to sell at the court-house in the parish of St. James, on Saturday, April 5, 1873, at 11 o'clock a. m., the following-describer property, to wit:

A certain tract of land or plantation established as a sugar estate, situated in the parish of St. James, in this State, on the left bank of the river Mississippi, about sixty-six miles above the city of New Orleans, consisting—

First. Of twelve and two-thirds arpents, more or less, front on the river, on a depth of eighty arpents, bounded heretofore above by the property of Dr. J. P. Bingay, and below by that of Messrs. Bruce, Seddon and Wilkins, and now bounded above by the property of Mr. Wood or assigns, and below by that of Mr. Morson or assigns, together with the sugar-house, engines, and other buildings and improvements thereon and therewith belonging, without any exception or reserva-
194 tion, as well as all the mules, carts, plows, agricultural implements, and all immoveable' by destination, attached to the said plantation for the cultivation, working, or improving the same, without any exception whatever.

Second. Four hundred and sixty-four shares, of one hundred dollars each, in the capital stock of the Citizens' Bank of Louisiana, being the remnant of four hundred and ninety-seven shares, from which thirty-three shares have been set apart by said bank, constituted cash stock in conformity with an act of the legislature of this State, entitled "An act to authorize the Citizens' Bank of Louisiana to convert shares secured by mortgage into cash shares," approved on the 25th day of April, 1853.

Third. The west half of section numbered forty-six, in township numbered eleven, east of the Mississippi River, range four east, in the district of lands subject to sale in the city of New Orleans, containing three hundred and seventeen fifty one-hundred' acres.

Fourth. A tract of land adjoining a part of the rear of the plantation above described, being the section numbered forty-five, in town-
195 ship numbered eleven, range numbered four east, in the district southeast, on the east bank of the river Mississippi, containing six hundred and forty-five fifty one-hundred' acres.

Terms: Cash on the day of sale.

The purchaser to assume a mortgage in favor of the Citizens' Bank of Louisiana for the sum of $5,573, due the 1st June, 1873, and renewable according to the charter *to the charter* of said bank, and to furnish a stock-note for said amount, renewable as aforesaid, identified with the act of sale to be made herein and with the original mortgage in favor of said bank.

To assume a note, secured by vendor's privilege and special mortgage on the property above described, for nine thousand five hundred and fifty-nine dollars, with eight per centum per annum interest from the first day of September, 1869, falling due on the first day of September, 1873.

A plan of the property, according to law, will be exhibited on the day of sale.

S. B. PACKARD,
United States Marshal.

196 *Subpœna in chancery to Mrs. Widow Casimir Carite.*

UNITED STATES OF AMERICA:

The President of the United States to the marshal for the district of Louisiana, greeting:

You are hereby commanded to summon Mrs. Célestine Cuny, widow of Casimir Carite, individually and in her capacity of natural tutrix of the minor children and heirs of said Casimir Carite, issues of her marriage with said Carite, viz, Casimer Louis Carite, Jean Jules Denis Carite, Jean Raymond Carite, Jean Maria Carite, and Marie Célestine Carite, sole heirs of said Casimir Carite, all of whom are citizens of Louisiana, to appear before the honorable the judges of the fifth judicial circuit of the United States, at a circuit court to be holden on the first Monday of May, 1877, then and there to answer a bill in chancery filed against her and others, wherein Mrs. Widow Félicité Trotot, a citizen of the State of Mississippi, is complainant, and said Mrs. Célestine Cuny, widow, &c., and others are defendants.

197 Herein fail not, and have then and there this writ, with your endorsement thereon how you have executed the same.

Witness the honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States of America, this 5th day of April, in the year of our Lord one thousand eight hundred and seventy-seven, and the 101st year of American Independence.

[SEAL.] (Signed) F. B. VINOT,
D'y Clerk.

The defendant is hereby notified that she is required to enter her appearance in the clerk's office of the United States circuit court on or before the first Monday of May, 1877, otherwise the bill may be taken pro confesso.

(Signed) F. B. VINOT,
D'y Clerk.

Marshal's return.

Received April 5th, 1877, by the U. S. marshal, and on the 9th day of April, 1877, served a copy hereof on Mrs. Widow Casimir Carite, within named, by handing the same to her in person at her do-

198 micil in the parish of St. James, about 68 miles from New Orleans.

(Signed) JOHN FAHY,
Dy Marshal.

Subpœna in chancery to Antoine C. Tremoulet.

UNITED STATES OF AMERICA:

The President of the United States to the marshal for the district of Louisiana, greeting:

You are hereby commanded to summon Antoine C. Tremoulet, a citizen of the State of Louisiana, to appear before the honorable the judges of the fifth judicial circuit of the United States of America, at a circuit court to be holden on the first Monday of May, 1877, then and there to answer a bill in chancery, filed against him and others, wherein Mrs. Widow Félicité Trotot, a citizen of the State of Mississippi, is complainant, and said Antoine C. Tremoulet and others are defendants.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

199 Witness the honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States of America, this 5th day of April, in the year of our Lord one thousand eight hundred and seventy-seven, and the 101st year of American Independence.

[SEAL.] (Signed) F. B. VINOT,
Dy Clerk.

The defendant is hereby notified that he is required to enter his appearance in the clerk's office of the United States circuit court on or before the first Monday of May, 1877, otherwise the bill may be taken pro confesso.

(Signed) F. B. VINOT.
Dy Clk.

Marshal's return.

Received April 5th, 1877, by the U. S. marshal, and on the 7th day of same month and year served a copy of within subpœna in chancery on Antoine C. Tremoulet, named herein, by handing the same to him in person.

New Orleans, April 7th, 1877.

(Signed) S. W. REED.
Dy U. S. Marshal.

200 *Subpœna in chancery to Jean M. Brunet.*

UNITED STATES OF AMERICA:

The President of the United States to the marshal for the district of Louisiana, greeting:

You are hereby commanded to summon Jean M. Brunet, a citizen of the State of Louisiana, in his capacity of under-tutor of the minor children and heirs of Casimir Carite, viz, Casimir Louis Carite, Jean Jules Denis Carite, Jean Raymond Carite, Jeanne Marie Carite, and Marie Célestine Carite, all of whom are citizens of the State of Louisiana, to appear before the honorable the judges of the fifth judicial circuit of the

United States of America, at a circuit court to be holden on the first Monday of May, 1877, then and there to answer a bill in chancery filed against him and others, wherein Mrs. Widow Félicité Trotot, a citizen of the State of Mississippi, is complainant, and said Jean M. Brunet and others are defendants.

201 Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States of America, this 5th day of April, in the year of our Lord one thousand eight hundred and seventy-seven, and the 101st year of American Independence.

[SEAL.] (Signed) F. B. VINOT,
D'y Clerk.

The defendant is hereby notified that he is required to enter his appearance in the clerk's office of the United States circuit court on or before the first Monday of May, 1877, otherwise the bill may be taken pro confesso.

(Signed) F. B. VINOT.

Marshal's return.

Received April 5, 1877, by the U. S. marshal, and on the 7th day of same month and year served a copy of within subpœna in chancery on Jean M. Brunet, named herein, by handing the same to him in person.

New Orleans, April 7th, 1877.

(Signed) S. W. REED,
D'y U. S. Marshal.

202 *Entry at rules.—Appearance of J. M. Brunet, A. C. Tremoulet, & Mrs. Carite.*

May rules, 1877. Monday, 7th.

MRS. FÉLICITÉ TROTOT *vs.* MRS. CÉLESTINE CARITE. } No. 8162.

Mrs. Célestine Carite, Jean M. Brunet, and A. C. Trémoulet, defendants herein, have this day, by their solicitors, Semmes & Mott, W. E. Murphy, and F. P. Poché, entered their individual and separate appearance to the complainant's bill of complaint.

Plea to jurisdiction.—Filed June 2d, 1877.

In the circuit court of the United for the district of Louisiana.

MADAME FÉLICITÉ TROTOT *vs.* MADAME CÉLESTINE CARITE ET AL. } No. 8162.

The joint and several plea of Madame Célestine Cuny, widow of Casimir Carite, and also of Antoine C. Tremoulet, defendants, to
203 the bill of complaint of Madame Félicité Trotot, complainant.

These defendants respectively, by protestation, not confessing or acknowledging the matters and things in the said bill of complaint men-

tioned and contained to be true in such sort, manner, and form as the same is therein set forth and alleged, for plea to the whole of said bill do plead thereunto, and for cause of plea say that before and at the time of exhibiting her said bill of complaint the said complainant was then, and is now, a citizen of the State of Louisiana, and that said complainant was not then, and is not now, a citizen of the State of Mississippi, as alleged in her said bill of complaint, and these defendants are citizens of the said State of Louisiana, and this court has no jurisdiction of the parties to said bill of complaint.

Therefore these defendants do aver and plead want of jurisdiction of the court to the plaintiff's bill, and pray the court whether they should be compelled to make any further answer to the said bill, and pray to be hence dismissed, with their reasonable costs and charges in that behalf most wrongfully obtained.

(Signed) SEMMES & MOTT.

204 We certify that in our opinion the foregoing plea is well founded in point of law.

(Signed) SEMMES & MOTT.

Madame Célestine Carite, one of the defendants to the bill of complaint in the above-entitled suit, being sworn, says that the foregoing plea is true in point of fact, and that the same is not interposed for delay.

(Signed) V^ve^ CÉLESTINE CARITE.

Sworn to and subscribed before me this 26th day of May, 1877.

(Signed) WM. H. LAWTON,
Just. of Peace, Parish of St. James, State of Louisiana.

Replication to plea.—Filed June 8th, 1877.

United States circuit court, in chancery.

M'me Félicité Trotot
vs.
M'me Célestine Carite et al. } No. 8162.

The replication of M'me Félicité Trotot, complainant, to the plea of M'me Célestine Carite et als., defendants.

205 This repliant, saving and reserving to herself all and all manner of advantage of exception to the manifold insufficiencies of the said plea, for replication thereunto saith, that she will aver and prove her said bill to be true, certain, and sufficient in the law to be answered unto; and that the said plea of the said defendants is uncertain, untrue, and insufficient to be replied to by this repliant; without this, that any other matter or thing whatsoever in the said plea contained, material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true; all which matters and things this repliant is and will be ready to aver and prove as this honorable court shall direct, and humbly prays as in and by his said bill he hath already prayed.

(Signed) HORNOR & BENEDICT,
Solicitors.

Entry in chancery order-book of filing of replication.—June 8th, 1877.

M'me Félicité Trotot
vs.
M'me Célestine Carite et als. } No. 8162.

206 The complainant has this day, by her solicitors, Hornor & Benedict, filed her replication to the defendant's plea.

Testimony taken by consent.—Filed June 8th, 1877.

U. S. circuit court.

Madame Félicité Trotot.
vs.
Madame Célestine Carite et als. } No. 8162.

Testimony taken by consent in the office of Messrs. Semmes & Mott, on June 7th, 1877.

Joseph P. Hornor, esq., for complainant; Robert Mott, esq., for defendant.

Madame Félicité Trotot, complainant, sworn and examined on her own behalf:

By Mr. Hornor:

This witness was examined in the French language, and Doctor Duchenne acted as interpreter, by consent of parties.

Q. You are the complainant in this case?

A. Yes, sir.

Q. Where do you reside?

207 A. At Bay St. Louis, in the State of Mississippi.

Q. Of what State are you a citizen?

A. The court has decided me to be a citizen of the State of Louisiana.

Q. That is not the question. What State are you a citizen of now?

A. Of the State of Mississippi.

Q. How long have you resided in the State of Mississippi?

A. Since the 13th of March.

Q. With what intention did you go to reside in the State of Mississippi?

A. I went to Mississippi with the intention of residing there permanently. I went there with the intention of becoming a citizen, so that my lawyers could bring a suit for me in the United States courts here. I did it by the advice of my advocates.

Q. Where did you reside before you went over there?

A. In New Orleans, in the State of Louisiana.

Q. On what street?

A. On Dauphine street.

Q. Have you retained that residence or have you given it up?

A. I have put my house for rent.

208 Q. The furniture that was in your house on Dauphine street, what have you done with it?

A. I removed it from the house on Dauphine street to Bay St. Louis.

Q. What is the position of your house on Dauphine street? Does anybody occupy it?

A. There is nobody that occupies it.

Q. Has it a bill on it for rent? Is it in the hands of an agent?
A. Yes, sir; it has a bill on it, and it is, in the meantime, in the hands of an agent.
Q. What is the name of the agent?
A. Doctor Duchenne. He is my son-in-law.
Q. Did anybody reside in that house with you before you moved to Bay St. Louis?
A. Nobody except my son.
Q. Where does your son reside now?
A. With his sister, Madame Duchenne.
A. But not in the house on Dauphine street?
A. No, sir.
Q. Madame Duchenne lives on Esplanade street, I believe?
A. Yes, sir.
Q. How many times have you been to the city since you moved
209 to Bay St. Louis?
A. Twice since I put my case in court.
Q. How long did you stay on those occasions?
A. I came one day and came back the dext day.
Q. Have you a house in Bay St. Louis, or are you boarding with somebody?
A. I have established a house in Bay St. Louis.

Cross-examined by Mr. MOTT:

Q. How long had you resided here before you removed to Bay St. Louis?
A. About thirty years—between thirty and thirty-one years.
Q. Did you not move to the State of Mississippi for the purpose of spending the summer there and then coming back in the fall?
A. No, sir; to remain all the time.

JOSEPH A. TROTOT sworn and examined on behalf of complainant.

By Mr. HORNOR:

Q. You are the son of Madame Trotot, who is the complainant in this case, and who has just left the stand?
210 A. Yes, sir.
Q. Where does your mother reside?
A. I' Bay St. Louis, Mississippi.
Q. How long is it since she resided there?
A. Since the thirtieth of March.
Q. Where did she reside before she resided there?
A. She resided on Dauphine street, in New Orleans.
Q. Where did you reside?
A. I resided with my mother at that time.
Q. Since she has gone to live in Mississippi where have you lived?
A. At my sister's, Mrs. Duchenne.
Q. On Esplanade street?
A. On Esylanade street.
Q. For how long has your mother gone to live in Bay St. Louis?
A. For good—altogether.
Q. How do you know that?
A. Well, because she has often said so to me, and always told me the same thing.
Q. When did she go to Bay St. Louis?
A. She went there on the thirtieth of March, as I stated.

Q. Did she tell you on the thirtieth of March what she went there for?

211 A. Yes, sir.

Q. What did she say?

A. She said she went there to make it her residence.

Q. Did she say that she went there to become a citizen of Mississippi?

A. Yes, sir.

Q. Did she tell you what she did that for?

A. She said it was in order to bring suit in the United States circuit court in this city.

Q. Did she tell you by whose advice she did it?

A. By her lawyer's advice.

Q. Has she resided in Bay St. Louis ever since?

A. Yes, sir.

Q. Do you know whether she has been back to the city of New Orleans since she went over there?

A. Yes, sir; she has been here twice.

Q. How long did she stay?

A. She came one day and went away the next day.

Q. Do you know what has become of the furniture that was on Dauphine street, where she resided before?

A. It has been brought over to Bay St. Louis.

212 Q. Has she a house in Bay St. Louis or is she boarding with somebody?

A. She has a house.

Q. Has she gone there for the summer or otherwise?

A. She has gone there to make it her residence.

Q. To make it her permanent residence?

A. Yes, sir.

Q. How do you know that?

A. Because she told me.

Cross-examined by Mr. MOTT:

Q. If she gains this suit she will not come here to live?

A. I do not know; I cannot tell that.

JOSEPH LEBLANC, sworn and examined on behalf of complainant:

By Mr. HORNOR:

Q. Do you know Madame Trotot, the complainant in this case?

A. Yes, sir; I know her.

Q. Where does she reside?

A. She resided before on Dauphin street.

Q. Where does she reside now?

A. In Bay St. Louis.

Q. How do you know that?

A. Because in the last of March, I do not know whether it was

213 the thirtieth or not, but it was in the last of March, I found Madame Trotot and Doctor Duchenne, and they were going to Bay St. Louis.

Q. Where did you find them?

A. I found them at my store, No. 266 Old Levee street.

Q. They were going then to the cars?

A. She walked by and told me that she was going to Bay St. Louis. I asked her if she was going there to take a walk. She said "I am going there to live and to stay there."

Q. Did she say what she was going to do that for?

A. She did not tell me that.
Q. That was in the latter part of March?
A. Yes, sir; about Good Friday, I believe.
Q. Have you seen her since?
A. I do not believe I have. No, sir; I have not.
Q. Not until to-day?
A. No, sir.
Q. Do you know where she used to live on Dauphine street?
A. Yes, sir; near the corner of Bourbon and Dauphine.
Q. Since the time you saw her has she occupied that house in Dauphine street?
A. No, sir.
214 Q. Do you go by there often?
A. I went there often before.
Q. Do you find it shut up now since she moved?
A. I pass there and I see that nobody is there.
Q. Did she not tell you what she was going to Bay St. Louis to live for?
A. No, sir.

No cross-examination.

B. BARTHE sworn and examined, on behalf of complainant:

By Mr. HORNOR:

Q. Mr. Barthe, do you live in New Orleans?
A. Yes, sir.
Q. Do you know Madame Trotot, the complainant in this case?
A. Yes, sir.
Q. How long have you known her?
A. Since about six or seven years.
Q. Do you know where she resides?
A. Yes, sir.
Q. Where?
A. In Bay St. Louis.
Q. How long has she resided there?
A. Since the thirtieth of March?
Q. Does she reside there permanently or temporarily?
215 A. Permanently.
Q. How do you know that?
A. Because she told me so.
Q. When did she tell you so?
A. On the day that she went away, she came home and told me that she was going to Bay St. Louis to live and reside there permanently.
Q. Did she tell you what her intention was in going there?
A. No, sir.
Q. Did she not mention to you that she wanted to become a citizen of Mississippi?
A. Yes, sir; she said she wanted to become a citizen of Mississippi.
Q. Did she tell you for what purpose?
A. No, sir.
Q. Did she not tell you that she had a lawsuit?
A. I knew that already.
Q. Did she not tell you that she went to Mississippi to live for the purpose of bringing that suit in the United States courts here?
A. I think she told me that. I do not know exactly.

Q. What did she do with her house in town? Do you know that she had a house in town, on Dauphine street?

216 A. Well, she wants to rent it, because I saw a bill on the door, and the house is empty.

Q. Have you seen her since that time?

A. I think I saw her once or twice.

Q. In the city here?

A. Yes, sir.

Q. Do you whether she was here then on a visit?

A. I think she was on a visit.

Q. How long did she stay?

A. I think she stayed one day.

Q. Do you know whether she has a house in Bay St. Louis?

A. Yes, sir.

Q. How do you know it?

A. Because she told me herself.

No cross-examination.

Doctor PAUL DUCHENNE sworn and examined on behalf of complainant.

By Mr. HORNER:

Q. You are a son-in-law of Madame Trotot, the complainant in this case?

A. Yes, sir.

Q. Do you know where she resides?

A. She resides in Bay St. Louis, in Mississippi.

Q. How long has she resided there?

217 A. Since the thirtieth of March.

Q. 1877?

A. 1877.

Q. Does she reside there temporarily or permanently?

A. She resides there permanently.

Q. How do you know that?

A. Because she has no house here any longer, and she lives over there. I have been over there to see her, and I rented the place over there for her.

Q. For how long did you rent it?

A. I rented the place by the year.

Q. Do you know anything about her intention to remain there?

A. She has the intention of remaining there.

Q. How do you know that?

A. Because she tells me so.

Q. Do you know why she moved over to the State of Mississippi?

A. She moved there to become a citizen of the State of Mississippi.

Q. How do you know that?

A. Because she told me so.

Q. At the time she moved?

A. Yes, sir.

Q. Why did she want to become a citizen of Mississippi?

A. In order to be able to maintain her suit in the United States court.

218 Q. In order to bring a suit in the United States court here against Mrs. Carite?

A. Yes, sir.

Q. She has an independent establishment over there?

A. Yes, sir.
Q. Furnished with the furniture from her house?
A. Yes, sir.
Q. Who lived with her before she went away from here?
A. Her son.
Q. Where does he live now?
A. With me.
Q. Is there any understanding that this is a permanent arrangement or a temporary arrangement? Is Mrs. Trotot's residence in Mississippi a real residence, or is it a residence merely for the purposes of this suit?
A. It is a real residence. That is all I know about it.
Q. She has expressed to you no intention of returning at any time?
A. No, sir.

Cross-examined by Mr. MOTT:

Q. Do you know whether she pays any taxes in the State of Mississippi?

A. No, sir; I do not know that she paid any. She made a
219 declaration before the mayor, who is at the same time a judge, on the 2d of April, that she had come over to become a citizen of Mississippi.

Submission of plea.—Extract from minutes of 13th June, 1877.—April term, 1877.

NEW ORLEANS, *Wednesday, June 13th*, 1877.

Court met pursuant to adjournment. Present, Hon. E. C. Billings district judge.

MRS. F. TROTOT
vs.
MRS. C. CARITE ET ALS. } No. 8162.

By consent of counsel the plea herein is submitted on the evidence in the record.

Order.—Plea overruled, &c.—Extract from minutes of 15th June, 1877.

MRS. FÉLICITÉ TROTOT
vs.
MRS. CÉLESTINE CARITE ET ALS. } No. 8162.

On due consideration of the law and the evidence the court decrees in favor of complainant upon defendants' plea, and directs said defendants to answer the bill within 30 days.

220 *Answer and disclaimer of A. C. Tremoulet.—Filed November 14th* 1877.

United States circuit court, district of Louisiana.

MADAME FÉLICITÉ TROTOT
vs.
MADAME CÉLESTINE CARITE, ANTOINE C. Tremoulet and others. } No. 8162.

The separate answer and disclaimer of Antoine C. Tremoulet, one of the defendants to the bill of complaint of Félicité Trotot.

This defendant, reserving all benefit of exception to the imperfections and errors in said bill contained, saith that he doth not know that

he, this defendant, to his knowledge or belief, ever had, nor did he claim or pretend to have, nor doth he now claim or pretend to have any right, title, or interest of, in, or to the plantation or mortgages in the said complainant's bill mentioned, or in any property whatever belonging to the said Casimir Carite, deceased, nor did he claim, or pretend
221 to be a creditor of said Carite, or of his surviving wife or children, described in said bill of complaint.

And as to so much of said bill of complaint as charges him with fraud and conspiracy in the manner set forth in said bill, he denies each and every allegation thereof; and he avers that so far as any personal liability on his part to complainant is concerned, even if said charges of fraud and conspiracy were true, the same would constitute an offence giving rise to a claim for damages cognizable on the law side of this court, and of which a court of chancery has no jurisdiction, and as such offence the same is proscribed by lapse of one year from the time the damage, if any occurred; and this defendant, as to said personal liability for said offence, sought to be enforced against him in said bill of complaint, avers that more than one year has elapsed since said alleged liability arose, if any existed, and since the alleged conspiracy was carried into effect, if it ever existed, which is denied, by the sale of said plan-
222 tation in the year 1873, and since the damage, if any was ever sustained, occurred, and therefore said alleged personal liability for said alleged offence is proscribed by lapse of time, to wit, one year, as aforesaid, and for this reason this respondent declines to make any other or further answer to said bill of complaint.

And this defendant denies all and all manner of unlawful combination and confederacy wherewith he is charged by the said bill, without this, that there is any other matter, cause, or thing in the said complainant' said bill of complaint contained material or necessary for this defendant to make answer unto and not herein, and hereby well and sufficiently answered, confessed, traversed, and avoided, or denied, is true to the knowledge or belief of this defendant; all which matters and things this defendant is ready and willing to aver, maintain, and prove as this honorable court shall direct, and humbly prays to be hence dismissed, with his reasonable costs and charges in this behalf most wrongfully sustained.

(Signed) THOS. J. SEMNES,
W. E. MURPHY,
Sol'rs for Defendant.

223 Antoine C. Tremoulet, being duly sworn, says the foregoing answer is true, so far as his own acts are concerned; and what relates to the acts of any other person he believes to be true.

(Signed) A. C. TREMOULET.

Sworn to and subscribed before me, at New Orleans, this 9th November, A. D. 1877.

[SEAL.] (Signed) AMÉDÉE DUCATEL,
Notary.

Separate answer of Mrs. Carite.—Filed November 14, 1877.

United States circuit court, district of Louisiana. In equity.

MADAME FÉLICE TROTOT
vs.
MADAME CÉLESTINE CARITE, ANTOINE C. Tremoulet & others. } No. 8162.

The separate answer of Célestine Carite, one of the defendants to the bill of complaint of Félice Trotot.

This defendant denies that she is the natural tutrix of her minor
224 children, mentioned in the complainant's bill of complaint, or that she held that office at the time she was served with process in this cause; she admits that on December 1st, 1876, she was confirmed natural tutrix of her said children, and Jean Brunet was also appointed under-tutor, but said confirmation as tutrix, and appointment of under-tutor were rescinded and annulled, and the letters of tutorship were revoked on February 6, 1877, by the parish court of the parish of St. James, which was vested with jurisdiction of the subject, as appears by a copy of the judgment of revocation herewith, filed and marked Exhibit "D" No. 1°.

This defendant, further answering, says that it appears in and by the said bill of complaint that the said Jean Baptiste Clément did not in any manner participate in the alleged conspiracy set forth in said bill, and that he was, at the time of the alleged conspiracy, living in France, and was then, and ever since has been, absent from this State, so that process could not be served on him, and for that reason
225 it is alleged in said bill, that said Clément was not made a party to said bill.

Now this defendant insists and avers that said Jean Baptiste Clément is a necessary and indispensable party to said bill of complaint, and that this honorable court cannot proceed in the cause to grant the relief sought by the complainant, unless said Clément be made a party to this cause, and served with process in accordance with law.

And this defendant further avers that her minor children, mentioned in said bill, are necessary parties to this suit, and the cause cannot proceed until they are duly represented by a legally appointed tutor.

This defendant admits the formation of the copartnership of Copponex & Co. on 18th September, 1869, by act before C. V. Foulon, notary public, as described in the bill of complaint and Exhibit "A," thereto annexed.

This respondent also admits that J. B. Clément, on 22d of September, 1869, sold to said partnership of Copponex & Co. the plantation described in the bill of complaint, for the consideration and on the
226 terms mentioned in the act of sale passed before Foulon, the notary, a copy of which is annexed to the bill of complaint as Exhibit B.

This respondent also admits the sale, by Copponex, of his interest in said plantation, to Moulor and Carite, the late husband of this defendant, as set forth in the bill of complaint and Exhibit "C," annexed to said bill of complaint, and that this sale was made on the 11th of January, 1871. This respondent also admits the sale, by Moulor, to Carite, on 30th of December, 1872, as described in the bill of complaint and Exhibit D, thereto annexed, whereby said Carite, the late husband of this respondent, became sole owner of said plantation, subject to

the mortgages arising out of the original purchase and the subsequent transfers above mentioned, and which are particularly set forth in the various exhibits annexed to the bill of complaint, as A, B, C and D.

This respondent admits the complainant is holder of five pro-
227 missory notes of $5,000 each, drawn by her late husband, and secured by mortgage on said plantation arising out of said sale by Moulor to Carite, on 30th of December, 1872.

This respondent also admits that complainant holds the note for $3,000 and the note for $1,000 drawn by her late husband, and described in the bill of complaint.

This respondent has no knowledge of the inscription of the various mortgages mentioned in the bill, other than that conveyed by the certificate of the recorder of mortgages annexed to the bill and Exhibit N, the correctness of which she neither admits nor denies; she presumes it is correct.

This respondent denies that she ever entered into any conspiracy or confederation with her late husband, Casimir Carite, and A. C. Tremoulet, on the 10th day of February, 1873, or at any other time, or with any person or persons on their behalf, for the purpose of injuring or defrauding the complainant or any one else, or that she caused, or in any manner influenced, said Tremoulet to enter or initiate pro-
228 ceedings on the mortgage notes owned by said Clément, and bearing on the plantation purchased as aforesaid by said Copponex & Co., as is alleged and charged in said bill of complaint, but she avers that said Clément was the true and lawful owner of the mortgage notes sued on in the said suit No. 6916 on the docket of this honorable court, and that the said suit was instituted by the said Tremoulet, the duly authorized agent of said Clément, to enforce payment of said mortgage notes; and that at the marshal's sale, there being no higher bidder, said Clément, through his said agent Tremoulet, purchased said plantation, and said Tremoulet made said purchase to secure the debt of his principal, the said Clément; that said sale was made and said purchase effected without consultation with this defendant, or any suggestion on her part, and that it is untrue, as is alleged in said bill of complaint, that the object of said sale was to defraud the complainant of her claims on said plantation, or to defraud any creditor of her deceased husband.

229 This respondent further answering says, that it is true her deceased husband, at the time of said sale, was hopelessly in debt, the result of his several transactions with said Moulor, said Copponex, and others, amounting to over $150,000, and that she found it necessary to put an end to the community of acquets and gains existing between her and her said husband, and to place her in position to do something for herself and family, and for that purpose, and no other, she brought suit against her said husband for dissolution of said community; and on 13th of March, 1873, a judgment was rendered in said suit dissolving the said community by the parish court of the parish of St. James, where she resides, after a hearing of the case, and due proof of all the allegations contained in her petition, a correct copy of which is annexed to the bill of complaint as Exhibit P, and a correct copy of the said judgment for the dissolution of the said community is annexed
230 to said bill as Exhibit Q, but she positively denies that said suit for dissolution of said community was instituted, or said judgment procured, as part of a conspiracy to defraud or for the purpose of defrauding complainant or any other creditor of the deceased husband of this respondent; and she avers that all the proceedings of said suit

for dissolution of said community was conducted in good faith, and in pursuance of the laws of Louisiana, and are valid and effective; and that no execution was issued on the judgment rendered in said suit, because said petition contained no demand for money or property, and said judgment required no execution, as it was self-operative. It is also true that said judgment of separation was never advertised, but the omission does not render said judgment void; but it is untrue, and this respondent denies that the proceedings in said suit for dissolution were not serious, or were taken by consent between this respondent and her deceased husband, or that there was no arrangement of
231 her said husband's affairs at the time said suit was instituted.

And this respondent furthermore says that her friends knowing her to be an industrious and active woman proposed and offered to make to her the necessary advances of money and supplies to work said plantation if she could purchase it from said Clement who had bought the same at marshal's sale on 5th of April, 1873, through his said agent Tremoulet, said sale having been made as aforesaid in the suit of Clément vs. Carite, No. 6916, on the docket of this court; that in consequence of his offers and proposals she entered into negotiations with the said Tremoulet for the purchase of the said plantation which terminated in the execution of an act of sale to her on 22d May, 1873, by act before C. T. Souiat, whereby she purchased said plantation for the price of $44,461.14, whereof she paid in cash $4,188.14 and assumed a mortgage-debt due the Citizens' Bank for $5,573 and for the residue, to wit, $34,700, she gave her six notes secured by mortgage on said plantation for the following sums: $7,500 payable on 15th De-
232 cember, 1873; two notes of $4,250 each, payable on 15th of December, 1874; one note for $1,700 payable 20th of November, 1874; one note for $8,500 payable 15th December, 1875, and one note for $8,500 payable 15th December, 1876; the said price $44,461.44 was the exact amount of the mortgage claims of said Clément on said plantation and the taxes and costs of sale made by the marshal in the said suit No. 6916, and said Clément accepted the same as it was a fair price, and he being in France was unwilling to incur the hazard and responsibilities of working said plantation, and this respondent avers that said sale was a bona fide transaction, the result of an honest effort on her part for the amelioration of her condition and that of her children, and she denies that it was the result of a conspiracy between her and her deceased husband and said Tremoulet, as is alleged in said bill of complaint, and she denies that said marshal's sale or the subsequent sale to her was fraudulent or simulated or the result of any conspiracy
233 whatever, and this respondent denies that she ever acknowledged in conversation or otherwise the existence of any such conspiracy as none existed, nor does she know nor has she heard of any such acknowledgement being made by her husband in his lifetime, nor does she believe that he made any such acknowledgement.

This respondent avers that at the time of the seizure of said plantation in said suit No. 6916, Casimir Carite, the late husband of this respondent, resided on the same and superintended the cultivation thereof; he was appointed keeper while the plantation was under seizure, and after the sale at the special request of Mr. Tremoulet he remained in charge until a sale could be effected which Mr. Tremoulet daily expected to do, and he so remained until 22d of May, 1873, when this respondent became the purchaser as aforesaid, since which time this respondent has controlled and managed said plantation with the assistance of M. F. Montz as an overseer.

234 This respondent proceeding to answer the special interrogatories propounded to her says (1) to the first interrogatory:

It is not false, but, on the contrary, it is true, that prior to the 13th February, 1873, Casimir Carite, the late husband of this respondent, became hopelessly insolvent, whether such insolvency was brought about by events occurring between the 30th December, 1872, and the 13th February, 1873, must be determined by the origin of the debts contracted by him prior to 13th February, 1873, for on that day her said husband was indebted as follows:

Mortgage note given in favor of L. Moulor on account of purchase of plantation	$55,000 00
Mortgage assumed in favor of Citizens' Bank	5,573 00
Three notes of Copponex & Co. held by A. C. Tremoulet, agent of J. B. Clément, $9,549 each	28,647 00
Privilege of Rousselot for building stable	3,375 00
Note given for mules	2,150 00
Mortgage given in favor of M. Giovanich	10,200 00
Amount due J. Claverie for money lent Mr. Carite	22,000 00
Amount due F. Coulon	6,000 00
235 Amount due B. Sarras	953 00
Amount due F. Vergez	4,600 00
Note held by P. Latervade and interest due Jan. 1, 1873	1,650 00
Note held by P. Latervade, jr., due April 1st, 1871	720 00
Note held by P. Latervade, date not recollected	1,330 00
Note held by M. Vidal, date not recollected	3,889 00
Note held by M. Vidal, date not recollected	300 00
Amount due Madame Daugan	500 00
Amount due Mrs. Dimage	700 00
Note held by Joseph Trotot	3,000 00
Note held by Joseph Trotot	1,000 00
Total	$151,587 00

There were other debts against the late husband of this respondent, but she cannot now remember dates and amounts.

2. To the second interrogatory: It is not true that there was no money due on the 5th April, 1873, to A. C. Tremoulet, agent, on account of the mortgage on said plantation granted by Copponex & Co. There was due on account of said mortgage the amount set forth in the petition of said Clément, filed in suit No. 6916, to
236 wit, $28,647, represented by three notes of $9,549 each, with 870 interest from 1st September, 1869, except on the first note the interest was paid up to the 15th Jan'y, 1873.

3. To the third interrogatory: It is not true that at the time the bill of complaint was filed or now nothing was or is due on account of said mortgage granted by Copponex & Co. There is due A. C. Tremoulet, agent of said Clément, the sum of $8,500 and to the Citizens' Bank $3,985. The said $8,500 was not paid for want of money, and hence said Tremoulet allowed respondent an extension of one year on paying the interest.

4. To the fourth interrogatory: At the time of seizure Casimir Carite, late husband of respondent, resided on the plantation aforesaid. He was appointed keeper while the same was under seizure. After the sale Mr. Tremoulet requested him temporarily to remain in charge until he could effect a sale. He remained in charge for account of Mr.

Tremoulet, as agent of said Clément, until the 22d May, 1873,
237 when this respondent purchased the plantation, and since that time this respondent took control of and conducted the business of said plantation and managed its affairs, assisted by M. F. Montz as overseer.

5. To the fifth interrogatory: There is no truth whatever in the alleged conspiracy. The financial embarrassment of the late husband of this respondent was such that respondent could do nothing to maintain herself and family. Respondent consulted Mr. F. Poché, her attorney on the subject, who advised the suit of dissolution of the community. This suit was carried on by Mr. Poché, and the costs were paid out of a deposit exacted from respondent on the institution of the suit.

6. To the sixth interrogatory: It is not true that the writ of seizure & sale was issued or the sale referred to in the interrogatory was made in pursuance of any conspiracy whatever, or with the intent of defrauding complainant or any other creditor of this respondent's deceased husband, Casimir Carite. Said suit No. 6916 was instituted and said sale was made for the purpose of enforcing payment of the mort-
238 gage debt aforesaid held by said Clément and Mr. Tremoulet, the agent of Clément, foreseeing or believing that said Casimir Carite would not be able to pay the three mortgage notes aforesaid described in said suit No. 6916, seized and sold the plantation, as he had a legal right to do, but such sale was not made in pursuance of any conspiracy or with the intent or view of defrauding complainant or any one else of their just rights on said plantation. The suit was brought by Mr. E. D. White, as attorney for Mr. J. B. Clement. This respondent presumes he was employed by Mr. Tremoulet as agent of said Clement. It was brought for the purpose of enforcing payment of the mortgage notes described in the petition filed in said suit No. 6916, and the costs were not paid by respondent or her husband; she presumes they were paid by the said Tremoulet, as agent for the said Clément, the purchaser.

7. To the seventh interrogatory: No conspiracy ever existed; the proceedings were instituted for the purpose fully set forth in the
239 answer to interrogatory fifth, and not with the view or intent of depriving the complainant or any creditor of said Carite of their just rights on said plantation, nor for any unlawful purpose, nor with the view of depriving all the creditors of said Casimir Carite, except said Tremoulet, of their just rights.

8. To the eighth interrogatory: This interrogatory is fully answered by her answers to the interrogatories numbered five, six, and seven, to which she refers and adopts as part of her answers to this interrogatory. She further says that the suits were brought on account of her husband's financial embarrassments. The suit No. 6916 in this court was brought by Mr. Tremoulet, as agent of Clément, to enforce payment of the mortgage debt described in the petition; the suit for separation of property was brought by respondent's orders, on consultation with her attorney, Mr. Poché, and this respondent paid the costs thereof. When this respondent negotiated with Mr. Tremoulet for the purchase of the plantation, she was aware that the marshal's sale had
240 already liberated the plantation from all mortgage subsequent to that granted by Copponex & Co., and under which the sale was made.

This respondent did not know that her proceedings for dissolution of the community would have the effect of depriving the complainant of her mortgage rights on said plantation, nor did she know that the pro-

ceedings in suit No. 6916 would have that effect. She has been advised that if the plantation had sold for more than enough to pay the claims of said Clément, the subsequent mortgages would not have been displaced by said marshal's sale, at least to the extent of the surplus of the price remaining after the satisfaction of the claims of said Clément, as first mortgagee.

10. To the tenth interrogatory: It is not true that this respondent has, in conversation with complainant or others in the city of New Orleans, since the proceedings were consummated, or at any other time or place, acknowledged or confessed that the proceedings referred to were
241 the result of the alleged conspiracy, or taken with a view and for the purpose of depriving all the creditors of said Casimir Carite, except said Tremoulet, agent as aforesaid, of their recourse against said plantation, in the presence of complainant or of others. She could not have made any such acknowledgement or confession, as no such conspiracy existed, and there is no foundation in truth for such an allegation. She further says she has no recollection of any conversation with complainant or others having any shadow of resemblance to the alleged conversation.

11. To the eleventh interrogatory: She has no knowledge or information on the subject inquired of, and this defendant denies all and all manner of unlawful combination and confederacy wherewith she is charged by the said bill, without this, that there is any other matter, cause, or thing in the said complainant's bill of complaint contained, material or necessary for this defendant to make answer unto, and not herein and hereby well and sufficiently answered, confessed, traversed,
242 and avoided, or denied is true, to the knowledge and belief of the defendant, all which matters this defendant is ready and willing to aver, maintain, and prove, as this honorable court shall direct, and humbly prays to be hence dismissed, with costs and charges in this behalf most wrongfully sustained.

(Signed) THOS. J. SEMMES,
" W. E. MURPHY,
Sol's for Defendant.

Célestine Carite, widow of Casimir Carite, and one of the defendants in the cause, whose title is given in the foregoing answer, being duly sworn, says that what is contained in the foregoing answer is true, so far as her own acts are concerned, and what relates to the acts of others she believes to be true.

(Signed) WVE. CÉLESTINE CARITE.

Sworn to and subscribed before me this 30th day of Oct., 1877.

(Signed) F. B. VINOT,
U. S. Comm'r.

Exhibit "D No. 1" filed with separate answer of Mrs. Carite, November 14th, 1877.

STATE OF LOUISIANA:

243 Parish court, parish of St. James.

SUCCESSION OF }
B. C. CARITE. }

On motion of F. P. Poché, of counsel for Célestine Cuny, widow B. Casimir Carite, of the parish of St. James, upon his suggesting and

showing to the court that the order granted by Hon. N. S. Landry, late judge of this court at chambers, on December 1st, 1876, confirming said widow C. Carite as natural tutrix, and appointing J. M. Brunet as under-tutor of the minors Casimir Louis, Jean Jules Denis, Jean Raymond, Jeanne Marie, and Marie Célestine Carite, and under which order said Widow Carite and said J. M. Brunet were respectively qualified as natural tutrix and as under-tutor of said minors, was granted inadvertently, without requiring an inventory to be made of the property of the said minors previous to said appointment conformably to section 2360 of the Revised Statutes of Louisiana, and that said appointment is therefore null and void in law,

244 It is ordered, adjudged, and decreed that said order of December 1st, 1876, be, and the same is hereby, rescinded and annulled. That the appointment of the said natural tutrix and of said under-tutor be declared null and void, and that the letters of tutorship and under-tutorship granted thereunder be revoked as null and void.

Rendered, read, and signed in open court at the probate term of the parish of St. James this 6th day of February, A. D. 1877.

(Signed) S. T. SISKROU,
Judge of the Parish Court, St. James.

A true copy. Clerk's office, parish of St. James. Feb'y 6th, 1877.
[SEAL.] (Signed) E. T. FISHER, *Clerk.*

Entries in chancery order-book of filing of answer of Mrs. Carite, and of answer & disclaimer of A. C. Tremoulet.

NOVEMBER 14, 1877.

MADAME FÉLICITÉ TROTOT *vs.* MRS. CÉLESTINE CARITE. } No. 8162.

245 Mrs. Célestine Carite, one of the defendants herein, has this day by her solicitors, Thos. J. Semmes and W. E. Murphy, filed her separate answer to the complainant's bill of complaint.

NOVEMBER 14TH, 1877.

MADAME FÉLICITÉ TROTOT *vs.* MRS. CÉLESTINE CARITE. } No. 8162.

A. C. Tremoulet, one of the defendants herein, has this day by his solicitors, Thos. J. Semmes and W. E. Murphy, filed his answer and disclaimer to the complainant's bill of complaint.

Entry in chancery order-book.—Cause set down upon Mrs. Carite's objections for want of parties.

4TH DECEMBER, 1877.

MRS. FÉLICITÉ TROTOT *vs.* MRS. CÉLESTINE CARITE. } No. 8162.

Cause set down upon the defendant', Célestine Carite's, objection for want of parties.

246 *Motion and order cause filed on Mrs. Carite's objections for want of parties, &c., &c.—Extract from minutes of 5th Dec'r*, 1877.

November term, 1877.

NEW ORLEANS, *Wednesday, December 5th*, 1877.

Court met pursuant to adjournment. Present, Hon. E. C. Billings, district judge.

MRS. FÉLICITÉ TROTOT
vs.
CÉLESTINE CARITE ET ALS. } No. 8162.

On motion of Hornor & Benedict, solicitors for complainant, and suggesting the consent of counsel for defendant,

It is ordered that this cause on defendant's objections for want of parties, and on plaintiff's exceptions to the answer of Tremoulet, be fixed for argument on Thursday, 13th December, 1877, at 11 o'clock, a. m.

Exceptions to answer of A. C. Tremoulet.—Filed December 12th, 1877.

United States circuit court, district of Louisiana, in chancery.

247 M'ME FÉLICITÉ TROTOT
vs.
MRS. CÉLESTINE CARITE. } No. 8162.

Exceptions taken by the above-named plaintiff to the answer of the defendant Antoine C. Tremoulet for insufficiency.

FIRST EXCEPTION.—For that the said defendant has not in and by his said answer, according to the best of his knowledge, remembrance, information, and belief answered and set forth whether it is false that the said Casimir Carite, between the 30th day of December, 1872, and 13th February, 1873, became hopelessly involved in debt. And if not false, he has failed to specify the debts in which he became involved during that period, with all the particulars thereto, as to all of which he was interrogated by the first interrogatory set forth in this plaintiff's bill of complaint.

SECOND EXCEPTION.—For that the said defendant has not in and by his said answer, according to the best of his knowledge, remembrance, information and belief, answered and set forth whether it is true
248 that there was no money due on the 5th April, 1873, to A. C. Tremoulet, agent (himself), on account of the mortgage granted by Copponex & Co., as set forth in the bill, or if any was due how much and for what; as to which he was interrogated by the second interrogatory set forth in this plaintiff's bill of complaint herein.

THIRD EXCEPTION.—For that the said defendant has not in and by his said answer, according to the best of his knowledge, remembrance, information, and belief, answered and set forth whether it is true that there is nothing due at this present time upon said mortgage, granted by said Copponex & Co., as set forth in the bill; nor, if there be any due, how much, nor why it has not been paid, nor whether any arrangements have been made for its payment, and when, where, and with

whom; as to all of which he was specially interrogated by the third interrogatory set forth in plaintiff's bill of complaint.

FOURTH EXCEPTION.—For that the said defendant has not in and by his said answer, according to the best of his knowledge, information and belief, answered and set forth whether it is true that
249 Casimir Carite resided upon said plantation, superintended the cultivation of the same, and in all respects managed the business concerns of the same, after the seizure of said plantation by the U. S. marshal as set forth in the bill, and after the sale by the U. S. marshal of 5th April, 1873, exactly and in all respects as he had done prior thereto, and so continued to do up to the time of his death; or if that be not true wherein it was not, and when said Carite ceased to take charge of said plantation, and who took his place; as to all of which he was specially interrogated by the fourth interrogatory set forth in plaintiff's bill of complaint.

FIFTH EXCEPTION.—For that the said defendant has not in and by his said answer, according to the best of his knowledge, information, and belief, answered and set forth whether it is true that conspiracy alleged in the bill was entered into for the purpose of defrauding plaintiff herein of her just rights as a mortgage creditor upon the plantation described in the bill; and if not, what was the purpose of all
250 those proceedings, by whom were they instigated and by whom carried out, and who paid the cost thereof; as to all of which he was specially interrogated by the fifth interrogatory set forth in plaintiff's bill of complaint herein.

SIXTH EXCEPTION.—For that the said defendant has not in and by his said answer, according to the best of his knowledge, remembrance, information and belief, answered and set forth whether it is true that said writ of seizure and sale, and said marshal's sale as set forth in the bill, were made in pursuance of said conspiracy, and with a view and intent of defrauding this plaintiff and other creditors of said Carite out of their just rights upon said property described in said bill; and if not, what was the purpose of those proceedings, and by whom they were instituted, by whom carried on, and who paid the cost thereof; as to all which he was specially interrogated by the sixth interrogatory set forth in said bill of complaint.

SEVENTH EXCEPTION.—For that the said defendant has not in and by his said answer, according to the best of his knowledge, re-
251 membrance, information and belief, answered and set forth whether it is true that the proceedings in the case of Cuny vs. Carite, as set forth in said bill, were taken in pursuance of the aforesaid conspiracy, and with the view of depriving all of the creditors of said Casimir Carite, except yourself as agent, as is set forth in said bill, and including this plaintiff, of their just rights against said plantation; and if not, what was the purpose of those proceedings, by whom they were instigated, and by whom carried on, and who paid the costs thereof; as to all which he was specially interrogated by the seventh interrogatory set forth in the plaintiff's bill of complaint herein.

EIGHTH EXCEPTION—For that the said defendant has not in and by his said answer, according to the best of his knowledge, remembrance, information and belief, answered and set forth whether it was true that he knew at the time said proceedings were taken, as set forth in 5, 6, and 7th interrogatories, that they would have the effect of de-
252 priving this plaintiff of her mortgage rights upon the plantation described in said bill; and if not what was their purpose, by whom instigated, by whom carried on, and who paid the costs thereof; as to al

of which he was specially interrogated by the eighth interrogatory set forth in plaintiff's bill of complaint.

NINTH EXCEPTION.—For that the said defendant has not in and by his said answer, according to the best of his knowledge, remembrance, information and belief, answered and set forth whether it is true that he has received full payment of the mortgage held by him upon the plantation described in said bill; or if not, exactly what sums he has received in part payment thereof, and from whom and when; as to all of which he was specially interrogated by the ninth interrogatory set forth in plaintiff's bill of complaint herein.

TENTH EXCEPTION.—For that the said defendant has not in and by his said answer, according to the best of his knowledge, remembrance, information and belief, answered and set forth whether it is true that he has frequently in conversation with the plaintiff and with others
253 in New Orleans, since said fraudulent proceedings have been consummated, acknowledged and confessed, that said proceedings were the result of the aforesaid conspiracy, and were taken with a view of and for the purpose of depriving all creditors of said Casimir Carite (except yourself as principal or agent) of their recourse against the plantation herein above described, and that in the presence of complainant and others; as to all of which he was specially interrogated by the tenth interrogatory set forth in plaintiff's bill of complaint herein.

ELEVENTH EXCEPTION.—For that the said defendant has not in and by his said answer, according to the best of his knowledge, remembrance, information and belief, answered and set forth whether it is true that all his proceedings with Casimir Carite aforesaid, for and against him, and by which the title of said plantation was passed from the name of said Carite to that of his wife, were taken upon his own responsibility, and without the knowledge and consent of Jno. B. Clément, in whose name he acted; nor if said Clément had knowledge how he obtained it, and when; as to all of which he was specially interrogated by the
254 eleventh interrogatory set forth in plaintiff's bill of complaint herein.

Wherefore complainant prays that these exceptions be maintained, and said defendant ordered to amend his answer accordingly, or that the facts set forth in said interrogatories be taken for true; and for general relief.

(Signed) HORNOR & BENEDICT,
Solicitors for Complainant.

Entry in chancery order-book of filing of complainant's exceptions to answer of A. C. Tremoulet.—12th December, 1877.

FÉLICITÉ TROTOT
vs.
CÉLESTINE CARITE ET ALS. } No. 8162.

The complainant herein has this day by her solicitors, Hornor & Benedict, filed her exceptions to the answer of A. C. Tremoulet, one of the defendants.

Hearing and submission of cause on defendant Carite's objections
255 *for want of proper parties, &c., &c.—Extract from minutes of* 29 *Dec'r*, 1877.

MRS. FÉLICITÉ TROTOT
vs.
MRS. CÉLESTINE CARITÉ ET ALS. } No. 8162.

This cause came on to be heard upon the defendants' objections for want of proper parties and on complainant's exceptions to the answer of Tremoulet, and having been argued by Hornor & Benedict, for complainant, and Thomas J. Semmes, for defendants, the court took time to consider.

Order: Complainant allowed to make J. B. Clement a party to suit; Tremoulet ordered to answer interrogatories, &c., &c.—Extract from minutes of 31*st Dec.*, 1877.

MRS. FÉLICITÉ TROTOT
vs.
MRS. CÉLESTINE CARITE, ET ALS. } No. 8162.

The defendants' objections for want of proper parties and complainant's exceptions to answer of Tremoulet came on to be heard and were argued; on consideration whereof, it is ordered that the objec-
256 tion that J. Baptiste Clément is a necessary party be sustained, and that complainant have leave to make said Clément a party to the suit.

It is further ordered that A. C. Tremoulet do answer the interrogatories within twenty days, and that Jean M. Brunet, former under-tutor, be appointed guardian of the minor children of Casimir Carite, deceased, and that service of subpœna be made upon said Brunet.

Subpœna in chancery to Jean M. Brunet.

UNITED STATES OF AMERICA:

The President of the United States to the marshal for the district of Louisiana, greeting:

You are hereby commanded to summon Jean Brunet, under-tutor and guardian of the minor children of Casimir Carite, deceased, to appear before the honorable the judges of the fifth judicial circuit of the United States of America, at a circuit court to be holden on the
257 first Monday of February, 1878, then and there to answer a bill in chancery filed against Mrs. Celestine Carite et als, wherein Mrs. Félicité Trotot is complainant and Mrs. Célestine Carite et als. are defendants.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States of America, this 3d of January, in the year of our Lord one thousand eight hundred and seventy-eight, and the 102d year of American Independence.

[SEAL.] (Signed) F. B. VINOT, *D'y Clerk.*

The defendant is hereby notified that he is required to enter his ap-

pearance in the clerk's office of the United States circuit court on or before the first Monday of February, 1878, otherwise the bill may be taken pro confesso.

(Signed) F. B. VINOT, *D'y Clk.*

Marshal's return.

Received Jan. 3, 1878, by the U. S. marshal, and on the 16th
258 day of Jan., 1878, served a true copy of the within subpœna in chancery on Jean Brunet, within named, by handing the same to him in person in the city of New Orleans.

(Signed) W. G. ELLIOTT,
D'y Marshal.

Amendment of bill, Filed January 4th, 1878.

U. S. circuit court.

FÉLICITÉ TROTOT
vs.
CÉLESTINE CARITE ET ALS. } No. 8162.

Complainant, by leave of the court, amends her bill of complaint herein so as to make J. B. Clément a party defendant thereto, as follows:

1°. Insert after the word "tutrix," in the 17th line on page one of the bill of complaint, "and against Jean B. Clément, a citizen and resident of the Republic of France."

2°. Insert after the word "Brunet," in the seventh line of page eleven of the bill of complaint, the words "and to Jean B. Clément."

(Signed) HORNOR & BENEDICT,
Solicitors for Complainant.

259 *Entry in chancery order-book of filing of amendment to bill.—January 4th, 1878.*

FÉLICITÉ TROTOT
vs.
CÉLESTINE CARITE. } No. 8162.

Complainant, by leave of court, has this day filed amendments to her bill of complaint herein, so as to make J. B. Clément a party defendant thereto.

Subpœna in chancery to Jno B. Clément.

UNITED STATES OF AMERICA:

The President of the United States to the marshal for the district of Louisiana, greeting:

You are hereby commanded to summon Jean B. Clément, a citizen of the Republic of France, to appear before the honorable the judges of the fifth judicial circuit of the United States of America, at a circuit court to be holden on the first Monday of February, 1878,
260 then and there to answer a bill in chancery, filed against him and others, wherein widow Félicité Trotot is complainant, and said Jean B. Clément and others are defendants.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States of America, this 4th day of January, in the year of our Lord one thousand eight hundred and seventy-eight, and the 102d year of American Independence.

[SEAL.] (Signed) F. B. VINOT,
Dy Clerk.

The defendant is hereby notified that he is required to enter his appearance in the clerk's office of the United States circuit court, on or before the first Monday of February, 1878, otherwise the bill may be taken pro confesso.

(Signed) F. B. VINOT, *Dy Clerk.*

Marshal's return.

Received Jan. 5th, 1878, by the U. S. marshal, and after due
261 and diligent search and inquiry the within-named Jean B. Clément could not be found in this district, and I am reliably informed that the said Jean B. Clément resides in France.

(Signed) W. G. ELLIOTT,
Dy Marshal.

Subpœna in chancery to Jean B. Clément.

UNITED STATES OF AMERICA:

The President of the United States to the marshal for the district of Louisiana, greeting:

You are hereby commanded to summon Jean B. Clément, a citizen of the Republic of France, through his agent and attorney in fact, Antoine C. Tremoulet, of this city, to appear before the honorable the judges of the fifth judicial circuit of the United States of America, at a circuit court to be holden on the first Monday of February, 1878, then and there to answer a bill in chancery, filed against him and others, wherein widow Felicite Trotot, a citizen of the State of
262 Mississippi, is complainant and said Jean B. Clément and others are defendants.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States of America, this 4th day of January, in the year of our Lord one thousand eight hundred and seventy-eight, and the 102d year of American Independence.

[SEAL.] (Signed) F. B. VINOT,
Dy Clk.

The defendant is hereby notified that he is required to enter his appearance in the clerk's office of the United States circuit court on or before the first Monday of February, 1878, otherwise the bill may be taken pro confesso.

(Signed) F. B. VINOT,
Dy Clerk.

Marshal's return.

Received Jan. 5th, 1878, by the U. S. marshal and on the 25th day of January, 1878, served a true copy of the within subpœna in
263 chancery on Jean B. Clément, through his agent and attorney in fact, Antoine C. Tremoulet, esq., by handing the same to him, the said Antoine C. Tremoulet, in person, in the city of New Orleans, the said Antoine C. Tremoulet, esq., being known to me by conversation had with Mr'. Tremoulet, his wife.

(Signed) W. G. ELLIOTT,
D'y Marshal.

Motion and order for publication.—Extract from minutes of 4th February, 1877.

FÉLICITÉ TROTOT
vs.
CÉLESTINE CARITE ET ALS. } No. 8162.

On motion of Hornor & Benedict, solicitors of complainant, and on showing to the court that this is a suit in equity commenced in this hon. court to enforce a legal and equitable lien upon real estate within the district of Louisiana, and that one of the defendants, Jean B. Clément, is not an inhabitant of this district, but lives in France, and that said Clément is now in France, and cannot be found in this district,

It is ordered by the court that said absent defendant Jean B.
264 Clément do appear, plead or demur to the bill of *of* complaint herein, on the 25th day of February, 1878, and that copies of this order be served on said Jean B. Clément, if practicable, and upon the person or persons in possession of the real estate upon which said lien is sought to be enforced herein as described in the bill of complaint, and that this order be published in the New Orleans Picayune, a daily newspaper of this city, once a week for six consecutive weeks.

Service of above order accepted by Mrs. C. Carite.

Service accepted for Mrs. Celestine Carite, one of the defendants, and who is in possession of the plantation described in the bill.

Jan'y 10, 1878.

(Signed) THOS. J. SEMMES,
Sol'r for Mrs. Carite.

Marshal's returns on above order for publication.

Received Jan. 5th, 1878, by the U. S. marshal, and after due and diligent search and inquiry, the within named Jean B. Clement could
265 not be found in this district, and I am reliably informed that the said Jean B. Clement resides in France.

New Orleans, Feb'y 25th, 1878.

(Signed) W. G. ELLIOTT,
D'y Marshal.

Received Jan. 5th, 1878, by the U. S. marshal, and on the 25th day of Jan. 1878, served a true copy of the within rule on Jean B. Clement, through his agent and attorney in fact, Antoine C. Tremoulet, esq., by handing the same to him, the said Antoine C. Tremoulet, esq., in person,

in the city of New Orleans, the said Antoine C. Tremoulet, being to me known by conversation had with Mrs. Tremoulet, his wife.

(Signed) W. G. ELLIOTT,
Dy Marshal.

Replication to answer of Mrs. Carite.—Filed January 10th, 1878.

United States circuit court.

M'me. Félicité Trotot
vs.
Mrs. Célestine Carite et als. } No. 8162.

To the honorable Edward C. Billings, judge of the district
266 court of the United States for the district of Louisiana.

The replication of Mrs. Félicité Trotot, plaintiff, to the answer of M'me. Celestine Carite, defendant.

This repliant, saving and reserving to herself all and all manner of advantage of exception to the manifold insufficiencies of the said answer for replication thereunto saith, that she will aver and prove her said bill, to be true, certain, and sufficient in the law to be answered unto; and that the said answer of said defendant is uncertain, untrue, and insufficient to be replied unto by this repliant without this that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, confessed and avoided, transversed and denied, is true; all which matters and things this repliant is, and will be, ready to aver and prove, as this honorable court shall direct; and humbly prays, as in and by her said bill she hath already prayed.

(Signed) HORNOR & BENEDICT,
Solicitors.

267 *Entry in chancery order-book of filing of replication to answer of Mrs. Carite.—January 10th, 1878.*

Félicité Trotot
vs.
Célestine Carite et als. } No. 8162.

Mrs. Félicité Trotot, complainant, has this day, by her solicitors, Hornor & Benedict, filed her replication to the answer of Mrs. Célestine Carite, defendant.

Answer of J. B. Clément.—Filed March 5th, 1878.

Circuit court of the United States, district of Louisiana, in equity

Madame Félicité Trotot
vs.
Madame Célestine Carite, A. C. Tremoulet, et als. } No. 8162.

The answer of Jean Baptiste Clément, residing in the Republic of France, made party defendant in the above-entitled cause, to the bill of complaint herein filed by Mrs. Félicé Trotot, says that he has
268 no knowledge or information of the allegations and charges

therein set forth, other than what is contained in the correspondence which has taken place between himself and A. C. Tremoulet, his duly constituted agent and attorney in fact, residing in New Orleans, which correspondence is filed in this honorable court with the testimony of the said A. C. Tremoulet taken de bene esse in this cause.

Respondent further answers that he never entered into any conspiracy with Casimir Carite, or any one else, for the purpose of defeating the claims of complainant as a creditor of the said Casimir Carite, or her mortgage rights on the plantation seized and sold in the case No. 6916 of this honorable court; neither does he believe that his agent, A. C. Tremoulet, ever was a party to any such conspiracy, if any such ever existed, which he has no reason to believe ever was formed.

That the proceedings had in the suit before referred to, of Jean Baptiste Clément vs. Casimir Carite, No. 6916 of this honorable court, were had, made, and carried on with the sole view and purpose of
269 securing to your respondent the amount then due him, as fully set forth in said proceeding, and for no other end or purpose.

That he adopts as his answer and defence to the proceedings herein taken against him the answers and defences herein filed by the said A. C. Tremoulet, and by Mrs. Celestine Carite, as true to the best of *his* knowledge and belief of respondent, and humbly prays to be hence dismissed with costs and charges in this behalf most wrongfully sustained.

(Signed) W. E. MURPHY.
" THOS. J. SEMMES,
Of Counsel.

Jurat waived.
(Signed) HORNOR & BENEDICT,
Solicitors for Comp't.

Entry in chancery order-book of filing of answer of J. B. Clements.—March 5th, 1878.

MRS. FÉLICITÉ TROTOT
vs.
MRS. CÉLESTINE CARITE, A. C. TREMOULET, et als. } No. 8162.

270 Jean Baptiste Clément, one of the defendants herein, has this day, by his solicitors, W. E. Murphy and Thos. J. Semmes, filed his answer to the complainant's bill of complaint.

Answer of Jean Brunet, guardian.—Filed March 5th, 1878.

Circuit court of the United States, district of Louisiana, in equity.

MADAME FÉLICÉ TROTOT
vs.
MADAME CÉLESTINE CARITE, A. C. TREMOULET, et als. } No. 8162.

The answer of Jean Brunet, late under-tutor appointed by this honorable court, guardian of the minor children of Casimir Carite, deceased, to the bill of complaint herein filed by Mrs. Félicé Trotot, says that he has no knowledge of the charges and allegations in said bill of complaint contained.

That in his capacity of guardian of the minor children of Casimir Carite he adopts all and singular the answers, averments, denials and defences opposed by Mrs. Carite to the said bill of complaint of Mrs. Trotot, and humbly prays that the same may be maintained,
271 and that he be hence dismissed with costs and charges in this behalf must wrongfully sustained.

(Signed) W. E. MURPHY.
" THOS. J. SEMMES,
Of Counsel.

Jurat waived.
(Signed) HORNOR & BENEDICT,
Solicitors for Comp't.

Entry in chancery order-book of filing of answer of Jean Brunet, guardian—March 5th, 1878.

MRS. FÉLICITÉ TROTOT
vs.
MRS. CÉLESTINE CARITE ET ALS. } No. 8162.

Jean Brunet, late under-tutor, appointed by this honorable court guardian of the minor children of Casimir Carite, deceased, has this day filed his answer to the complainant's bill of complaint.

Supplemental answer of A. C. Tremoulet.—Filed March 13, 1878.

272 United States circuit court, district of Louisiana, in equity.

MADAME FÉLICÉ TROTOT
vs.
MRS. CÉLESTINE CARITE, A. C. TREMOULET, et als. } No. 8162.

The supplemental answer of A. C. Tremoulet, one of the defendants, to the bill of complaint of Félicé Trotot.

This defendant, further answering, reaffirms and maintains all and singular the exceptions, pleas, and allegations in his original answer herein made and filed in this proceeding to the bill of complaint of said Mrs. Félicé Trotot, and, without waiving any of the same, or any part thereof, now proceeds to answer the interrogatories propounded to him in said plaintiff's bill of complaint, as he has been required to do.

1°. To the first interrogatory answers: It is not false, but on the contrary it is true, that prior to the 13th of February, 1873, Casimir Carite became hopelessly insolvent; whether such insolvency was brought about by events occurring between the 30th of December, 1872, and the 13th of February, 1873, must be determined by the
273 origin of the debts contracted by him prior to the 13th of February, 1873, but respondent has no knowledge of the origin or amount of his debts other than the sum of $28,647 due to J. B. Clément and secured by a mortgage on the plantation referred to in plaintiff's bill of complaint.

2°. To the second interrogatory: It is not true that there was no money due on the fifth of April, 1873, to me as the agent of J. B. Clé-

ment on account of the mortgage on the said plantation granted by Copponex & Co. There was, on the contrary, due on account of said mortgage the sum of $28,647, represented by three notes of $9,549 each, with eight per cent. interest from the 1st of September, 1869, except on the first note, the interest on which was paid up to the 15th January, 1873, which notes were filed in the suit No. 6916 of this honorable court; also the further sum of $5,573 due to the Citizens' Bank, also secured by mortgage on said plantation.

3°. To the third interrogatory: It is not true that at the time of filing of said bill of complaint, or now, that nothing was due or is due
274 on account of said mortgage granted Copponex & Co. There is due respondent, as agent of J. B. Clément, the sum of $8,500 and the Citizens' Bank $3,985. The said $8,500 was not paid at maturity by Mrs. Carite, the purchaser of said plantation, for want of money, for which reason respondent extended the time of payment one year on receiving the interest at 8 per cent. for such extension.

4°. At the time of the seizure Casimir Carite resided on the plantation and superintended the cultivation of the same. When the United States marshal made the seizure he appointed a keeper who was unknown to your affiant, which keeper remained in charge until the plantation was sold and purchased by me as the agent and for the account of J. B. Clément, to wit, 5th April, 1873; he remained in charge at my special request up to the time I sold the same to Mrs. Carite, 22d May, 1873, when Mrs. Carite took control of the same, as far as I am informed.

5°. To the fifth interrogatory: There is no truth whatever in
275 the alleged conspiracy, and nothing was done by me, either personally or as the agent of J. B. Clément, for the purpose of defrauding the complainant herein, or any one else, of their just rights as a mortgage creditor or creditors upon said plantation.

The purpose of the proceedings instituted by me as the agent of J. B. Clément were entirely in the interest of my principal, they were instigated by no one to my knowledge, their purpose to realize the amount due to Mr. Clément, Mr. Casimir Carite being hopelessly insolvent and unable to pay the amount of the mortgage notes held by me. The suit was carried on by my attorney, E. White, esq., and the costs of said proceedings and sale were paid by me as agent aforesaid.

6°. To the sixth interrogatory: As before stated there existed no conspiracy whatever that I have any knowledge of, certainly none to which I was a party. The writ of seizure and sale before described and said marshal's sale were issued and made for the sole purpose of liquidating the debts due J. B. Clément as before set forth, and not with
276 any view or intent of defending complainant or other *other* creditors of Casimir Carite out of their just rights upon said property, and were issued and made for the purpose of liquidating and securing the amount of the claim of J. B. Clément as before stated, and with no other view, intent or purpose. The costs of said proceedings were paid by me as agent aforesaid, the suit was instigated by no one, and was brought by me when Carite ceased paying the interest of the debt.

7°. To the seventh interrogatory: I have no knowledge whatever of the motives that actuated the parties to the proceedings in the case of Mrs. Célestine Cuny vs. Casimir Carite; said proceedings were not taken in pursuance of any conspiracy or with a view of depriving all or any of the creditors of Casimir Carite, excepting myself as agent of J. B. Clément aforesaid, including complainant herein, of their just rights against said plantation as before stated. I know not the purposes of

the parties to said proceedings, or by whom they were instigated, or by whom they were carried on, or who paid the costs thereof.

277 8°. To the fifth interrogatory: This interrogatory is fully answered by my answers to interrogatories five, six and seven, to which I refer as part of my answer to this interrogatory, and further answers: That the reasons for which the suit was brought by me as agent of J. B. Clément vs. Casimir Carite, No. 6916 of the docket of this honorable court, were the following: The said Carite having failed to pay the interest on the amount of the debt due to J. B. Clément, and the acceptances of Bouligny & Esclapon, given by him to secure the same, not being paid at their maturity, I found it necessary, to protect the interests of Mr. Clément, to foreclose the mortgage: that, having communicated that fact to Mr. Carite, he agreed to make no opposition to said proceedings (which I feared he would), on condition that if the property did not sell for more than was due Mr. Clément, I as his agent would purchase the same, and resell it to Mrs. Carite, who was separated in property from her husband. Having no intention of pur-

278 chasing the property with the design of keeping the same, and for the purpose of arriving at a speedy solution, and being afraid that he would go into bankruptcy, I agreed to the proposal. At the sale made by the marshal on the 5th of April, 1873, there being no bidders over and above the sum of $24,385.70, two-thirds of the appraisement—an amount much less than that due Mr. Clément—to protect his interest, I purchased in the same for his account. Had the property brought enough at the sale to cover the amount due Mr. Clément, I would not have bought it, being under no obligation whatever to do so. After having purchased the plantation and being unable to do any better with it, in the interest of my principal I resold the same to Madam Carite for the sum of $44,461, an amount sufficient to reimburse him his debt, interest, and all costs incurred by him, as well as the amount due the Citizens' Bank, being the full value of said plantation, and more than I could have obtained at the time from any one else.

When respondent instituted the suit No. 6916, he was advised

279 that if the plantation sold for more than enough to pay the claims of said Clément, the subsequent mortgages would not have been displaced by said marshal's sale, at least to the extent of the surplus of the price remaining after the satisfaction of the claims of said Clément as first mortgagee. All the proceedings instituted and carried on by me were instituted and carried on in the sole interest of my principal, J. B. Clément, and in the interest of no one else, or instigated by no one else, and I paid the costs of the same, which were refunded by the sale to Mrs. Carite.

9°. To ninth interrogatory: It is not true that I have received full payment of the mortgage, held by me as agent of J. B. Clément upon the plantation above described, made by Copponex & Co. by act before Foulon, notary public, on the 22d September, 1869. At the time of the institution of the suit No. 6916 there was due J. B. Clément of the said mortgage $28,647, represented by three notes of $9,549 each, with 8 per cent. interest from 1st September, 1869, except on the first

280 note, the interest on which was paid up to the 15th January, 1873. Since the sale to Madame Carite I have received from her the following amounts, set forth at pages 5 and 7 of my correspondence with J. B. Clément, made part of my testimony given in this case.

10°. To the tenth interrogatory: It is not true that respondent has in any conversation with complainant or others in the city of New Orleans since the proceedings were consummated, or at any other time or place,

acknowledged or confessed that the proceedings referred to were the result of the alleged conspiracy, or taken with the view or for the purpose of depriving all the creditors of said Casimir Carite, except said Tremoulet, agent as aforesaid, of their recourse against the plantation, either in the presence of complainant or of others. He could not have made such acknowledgement or confession, as no such conspiracy existed, and there is no foundation in truth for such an allegation.

281 11°. It is not true that all the proceedings taken by me against Casimir Carite, by which the title of said plantation was passed from the name of said Carite to Clément and from Clément to Mrs. Carite, were taken upon my own responsibility and without the knowledge and consent of Jean Baptiste Clément, for whom I acted, while using the discretion entrusted me by the said Clément. I informed him of all that was taking place, to which he assented, and my correspondence with him on that subject is annexed to my testimony given in this case.

And this defendant, denying all and all manner of unlawful combinations and confederacy wherewith he is charged by the said bill, without this, if there is any other matter, cause, or thing in said complainant's bill of complaint contained material or necessary for this defendant to make answer unto, and not herein or hereby well and sufficiently answered, confessed, traversed, and avoided or denied, as true to the knowledge and belief of the defendant, all which matters this defendant is ready and willing to aver, maintain, and prove as this

282 honorable court shall direct, and humbly prays to be hence dismissed with costs and charges in this behalf most wrongfully sustained.

(Signed) THO'S J. SEMMES,
(") W. E. MURPHY,
Of Counsel.

A. C. Tremoulet, being duly sworn, deposes and says that all his answers to the foregoing interrogatories are true and correct.

(Signed) A. C. TREMOULET.

Sworn to and subscribed before me, Charles Gilbert Audry, a notary public duly commissioned and qualified in and for the parish of Orleans, in the State of Louisiana, at the city of New Orleans, this twelfth day of March, 1878.

[SEAL.] (Signed) CHA'S G. AUDRY, *Not. Pub.*

Entry in chancery order-book of filing of suppl. answer of A. C. Tremoulet.—March 13th, 1878.

MRS. FÉLICITÉ TROTOT
vs.
MRS. CÉLESTINE CARITE ET ALS. } No. 8162.

283 A. C. Tremoulet, one of the defendants herein, has this day filed his supplemental answer, through his solicitors, Thos. J. Semmes and W. E. Murphy, to the complainant's bill of complaint.

Replication.—Filed March 14th, 1878.

United States circuit court, district of Louisiana, in chancery.

MRS. FÉLICITÉ TROTOT
vs.
MRS. CÉLESTINE CARITE. } No. 8162.

To the honorable Edward C. Billings, judge of the district court of the United States for the district of Louisiana:

The replication of Mrs. Félicité Trotot, plaintiff, to the several answers of Mrs. Célestine Carite, John M. Brunet, J. B. Clément, and A. C. Tremoulet, defendants.

This repliant, saving and reserving to herself all and all manner of advantage of exception to the manifold insufficiencies of said
284 answer, for replication thereunto, saith that she will aver and prove her said bill to be true, certain, and sufficient in the law to be answered unto, and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto by this repliant; without this, that any other matter or thing whatsoever in the said answer contained material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true; all which matters and things this repliant is and will be ready to aver and prove as this honorable court shall direct, and humbly prays as in and by her said bill she hath already prayed.

(Signed) HORNOR & BENEDICT,
Solicitors.

Entry in chancery order-book of filing of replication.—March 14th, 1878.

MRS. FÉLICITÉ TROTOT
vs.
MRS. CÉLESTINE CARITE ET ALS. } No. 8162.

285 Mrs. Félicité Trotot, complainant, has this day, by her solicitors, Hornor & Benedict, filed her replication to the several answers of Mrs. Célestine Carite, John M. Brunet, J. B. Clément, and A. C. Tremoulet, defendants.

Order relative to taking of testimony.—Extract from minutes of 25th March, 1878.

MRS. FÉLICITÉ TROTOT
vs.
MRS. CÉLESTINE CARITE ET ALS. } No. 8162.

Counsel for complainant moving the court to fix the time in which the defendant shall take his evidence, after hearing Thos. J. Semmes, solicitor for said defendant, it was ordered by the court that the evidence be taken within three months agreeably with the provisions of rule 69—one month to complainant, one month to the defendants, and one month for the reply by complainant.

under the mortgage; and, as they persisted, under my advice, Mr. Tremoulet instructed—previous notice having been given to Carite, who was in this city—me to proceed with my executory process.

I did so; took a deputy marshal and keeper, went by steamboat to the plantation, reached there just in time to prevent the removal of the mules covered by the Neil seizure, levied on the property, took an inventory, and put the keeper in charge and returned to the city. During the course of the advertisement I visited the property two or three times. The keeper remained in charge from first to last, from day of seizure to day of sale. During the period of seizure Mr. Carite had frequent conversations with me and sometimes with Mr. Tremoulet in my presence. In all these conversations he was told that the plaintiff had no desire to acquire the property, had not the
292 means to work it if he did acquire it, and would cheerfully give time if his interest was paid, and if Carite obtained time and indulgence from all his creditors, thus securing the property from seizure by others, and the security of the plaintiff from consequent risk. Mr. Carite was told that if at any time he could make such arrangements the proceedings would be stopped; that even after the sale, if the plaintiff bought the property, his intention only to bid up to the amount of his claim with costs and charges being stated, the same offer would remain open for a reasonable time. Carite was sanguine of his ability to make such arrangements and professed to be making headway in its consummation.

During the seizure and before the sale quite a number of the creditors of Moulor, Copponex & Co. and Carite called on me. To all of them I stated exactly what had been said to Carite; that is, that the seizure of the property had been provoked by the threatened removal of the immovables by destination; that the property was not desired by the plaintiff; that he had no intention of bidding on it beyond
293 the amount of his claim with costs and charges; that Carite had been told if he could successfully arrange with his creditors indulgence would be given and proceedings stopped.

One or two creditors were present at the sale. The property was bid in by me for the account of the plaintiff. The keeper was, I think, left by me on the property, although of this I am not certain, to await the completion of the marshal's deed and the perfection by Mr. Tremoulet of some plan of working the property, which he was very loath to do, as in consequence of large losses incurred in the sugar business he was entirely devoid of confidence in the future of the industry.

After the sale Mr. Carite came to see me, and indulged yet in the illusion of being able to arrange with his creditors. He handed me a list of them. I told him that they were so numerous and the amount so large that his idea was chimerical. He then wished to lease; but upon my advice Mr. Tremoulet declined. In all these conversations with Carite growing out of these proposals, and with other creditors
294 of Carite, the same statement was uniformly made that the whole object of the plaintiff was to secure his debt, and not to become the owner of the property which he had reluctantly bought.

Some time afterwards Carite called and urged me to press Mr. Tremoulet to sell the property to Mrs. Carite. He represented that she was separate in property from himself, and that a friend, whose name he gave me, but which I do not now recall, was willing to advance Mrs. Carite a sufficient sum of money to make a cash payment. I submitted the proposition to Mr. Tremoulet, and told him that in my judgment the sale to Mrs. Carite did not involve the same danger to the property

which would be contained in a sale to Mr. Carite, if the judgment of separation were regular, and if he desired to dispose of the property. He reiterated to me his reluctance to enter into the sugar planting business, stated his inability to work the property, and his desire to sell. Under his instructions I either wrote or met Mr. Poché and inquired as to the judgment of separation. He told me, or wrote me, I forget which, that it was regular, and I thereupon mentioned
295 the fact to Mr. Tremoulet. He instructed to prepare a statement of the amount due in his case, in costs, interest, attorney's fees, taxes, etc., which I did. Some days after he told me that he would make a sale of the property to Mrs. Carite for the amount of his claim—capital, interest, costs, taxes, attorney's fees, etc.—so that he would be made whole. This was communicated to Carite, who expressed, as the agent of his wife, his acceptance, and said he would return in a few days with the cash requisite to make up the cash required. Some time elapsed and he returned very much disappointed, and stated that the friend upon whom his wife relied would not advance to her an adequate amount of cash, but only a sum which, if my memory is correct, was several thousand dollars below the amount required. In the mean while my recollection is that the marshal's deed had not been completed, but I paid the charges resulting from the sale.

Carite came to see me again and again, until finally I called on Mr. Tremoulet and told him that I was perfectly willing, in
296 order to assist Mrs. Carite, to pretermit the cash payment of my fee and allow it to go as part of the credit price. Mr. Tremoulet objected; said that if this was done my fee would become concurrent with his mortgage, which he did not wish. I told him that this could be obviated by making my note second in rank to the notes to be issued to him for the credit portion of the price. He agreed upon condition that the note would besides this remain in his hands to prevent its discount. This was agreed to by me. Carite was informed, and even then was a little short, if I recollect, of cash, and as I had paid the costs out of my bank account I agreed to wait for a few dollars for reimbursement from Mrs. Carite. The act of sale, under Mr. Tremoulet's instructions, was written by me and handed to Mr. Soniat, a notary.

(Signed) EDWARD D. WHITE.

Document marked "White No. 2."—Filed April 3d, 1879.

United States circuit court.

297 MRS. FÉLICITÉ TROTOT
vs.
MRS. CÉLESTINE CARITE ET ALS. } No. 8162.

Testimony taken by consent in the office of Messrs. Hornor and Benedict, March 10th, 1879.

Present, J. P. Hornor, esq., and Thos. J. Semmes, esq.

Hon. EDWARD D. WHITE, cross-examination:

By Mr. HORNOR:

Q. (After reading to witness his direct examination.) Now, judge, in this you state that you went on, proceeded with the executory process, and took a deputy marshal and keeper and went by steamboat to the plantation and reached there in time to prevent the removal of the

mules, covered by the Neal seizure; levied on the property, took an inventory, and put a keeper in charge. Do you remember the keeper's name?

A. I do not.

Q. Are you sure you took the keeper with you?

A. Yes, sir. I don't remember his name at the present moment, but I could tell his name by looking over my papers. I recollect
298 giving him his money and taking his receipt. The deputy marshal was Stockton, and the keeper's name was either Dunmore, Dinmore, or Dunsmore, or some name of that kind.

Q. Do you remember how long he remained there as keeper?

A. As long as I was there. I made frequent visits to the place—seven or eight visits—and I saw him there say six visits.

Q. Do you know nothing of Mr. Carite being placed there as marshal's keeper?

A. He never was.

Q. During the time that the place was under seizure, didn't Mr. Carite keep on cultivating the plantation the same as before the seizure?

A. Yes. When I went upon the plantation to make the seizure we got there at night with the deputy marshal and this keeper. These mules which was covered by the Neal seizure we found, the next morning, had been separated and put in a pen, and the marshal who had made the seizure had gone up to Donaldsonville to telegraph to New Orleans to the marshal how he was to bring
299 the mules down. In the mean time Deputy Marshal Stockton and myself took an inventory, went all over the place; we took a list of the mules and everything of the kind. I then came down to the city and saw the marshal about my getting funds to work the property. Meanwhile a man, whose name I don't recollect, came to me and said that I had levied on goods in the store on the plantation, and that some of those goods were his; that he had some arrangement of some kind with Mr. Carite by which these goods were to be sold to the plantation hands at a profit, and he told me that he was willing to make the arrangement with me, if I was going to work the property, and by that means he could pay the necessary expenses cheaper than I could, and, also, as he was accustomed to the way provisions were furnished. Tickets were issued by the store to the hands, and these tickets would be taken up for provisions and paid back to the hands whenever their wages were due in lieu of money. I went to see Mr. Tremoulet,
300 and afterwards the marshal, who said he had no objection to any arrangement we might make, and he gave written instructions to his keeper to that effect. I started back and took with me five or six hundred dollars in money, to provide for the working of the plantation in case the agreement wasn't made. This man whom Carite had there in the store to conduct the planting operations I considered was covered by my seizure, whatever was the result at the end of time, and when we got it settled, if we bought the property, we would settle with him; and if anybody else bought, he would get his money out of the proceeds of sale.

Q. The result was Carite went on and carried on the plantation the same as before?

A. Yes, sir; that is, the plantation was carried on under that arrangement made with the store, with the understanding that the money spent for carrying on the plantation would be refunded by us if we bought the property, and if bought by anybody else, it would

301 be considered a privileged claim, and the money would be paid out of the proceeds of the sale.

Q. At no time was Carite the marshal's keeper?

A. No, sir. I am sure he was not, because I recollect I removed the keeper when I left there.

Q. You say in your direct examination, judge, that some time Carite called and urged (me) you to press Mr. Tremoulet to sell the property to Mrs. Carite, he representing that she was separate in property from himself. At the time that Carite came to you and made that statement, was that before or after the sale?

A. I desire to say in answer to that, that in thinking over that testimony since I don't recollect with precision whether or not, in some of the conversations which preceded the sale, Carite didn't say that he would like to buy the property in the name of his wife. If we agreed to sell to him, my impression is, that the first mention of a sale
302 to his wife was made after we had bought, but I am not sufficiently assured of that to swear to it. It may have been in some of those conversations. I saw the man all the time, off and on, and it may have been in some of these conversations before the sale that he mentioned that if we bought he would like for us to sell it to his wife. My recollection is, until after the sale I had no knowledge of his wife being separate in property from himself. I recollect when he submitted the proposition to me, which I think was after the sale, because I told him we wouldn't put ourselves in any better position if the judgment of his wife wasn't a formal judgment, because it would still leave our security open to seizure to his creditors. I think he told me that Mr. Poché had obtained the judgment of separation, and I told him to tell Mr. Poché to write me a letter stating the fact that the separation had been properly obtained.

Q. That you believe took place after the sale?

303 A. Yes, sir; and it may have been before. It may have been in some of the conversations before the sale, referring to his wife.

Q. I want to ask you this question: Was it not arranged between you and Tremoulet and Carite before the sale that Mrs. Carite was to obtain a separation and buy in the property?

A. It was not. I don't consider that there was any arrangement on that subject made by me. I never heard of it. There was always an understanding that if we bought this property—because we didn't want it—if you come at any time and pay the costs and save us from any loss, we will give you the advantage to buy the property, but we don't obligate ourselves to anything. It may have been in these conversations that he mentioned his wife, and that agreement was understood to cover a sale to himself or to his wife, which my memory can't fix at the present time.

Q. Is it possible that Tremoulet should have made such a definite arrangement prior to the sale?

304 A. I know there was no such definite arrangement, from the fact that I tried to get my own father to buy the property.

Q. Now, did you know of any agreement between Tremoulet and Carite before this suit was brought that the suit should be brought, that Carite should pay the costs, that Tremoulet should buy in the property, and then should make a deed to Mrs. Carite?

A. I didn't know of any such agreement, and I don't think there was one. I remember distinctly on the day we went on the boat one of the creditors, Eliot, also went on the boat. He had mules on the property, and he came to me at that time, and while the property was under

seizure, to see about his mules. He told me he was a client of Messrs. Hornor & Benedict, and they had referred him to me, and I told him to say to them that I was perfectly willing to allow that his claim should abide the decision in the Neal & McIntyre seizure. He came to
305 see me four or five times, and I recollect his asking me if we intended to buy the property. I told him we didn't want it, and he stated that he would purchase. I suppose I saw him twenty times, and he said he intended to make an arrangement, or had made an arrangement, with the Bank of America, Mr. Fortier, president, for the money to buy. In going up to the sale he said that he had the money with him, at least professed to have it. This matter was talked over by him in presence of Carite and Tremoulet. He was saying all the way that he was going to purchase.

Q. Now, did you know at any time before the marshal's sale that there was an agreement between Tremoulet and Mr. Carite that Carite should pay the costs of these proceedings; that Tremoulet should buy in the property under the marshal's sale; that in the mean time Mrs. Carite should obtain a separation of property from her husband, and afterwards Tremoulet should reconvey the property to Mrs. Carite?

306 A. Of course, as I have said in my statement in chief, I was perfectly aware of the fact that Tremoulet had told Carite in my presence, time and time again, that he didn't intend to push on it except to secure himself; that he was perfectly willing to let it go for the amount of his claim, and that he would sell it to Carite at any time for the amount and costs if he felt himself secure. As I have said before, whether Mrs. Carite was mentioned in these conversations before or after the sale is a matter of which I am not certain.

A. Your answer isn't an answer to my question. My question is whether there was not an absolute agreement before the marshal's sale between Mr. Carite and Tremoulet that Carite was to pay the costs; that Mrs. Carite was to obtain a separation; that Tremoulet was to buy the property at the marshal's sale, and afterwards reconvey it to Mrs. Carite?

A. I say no. I never knew of such an agreement, although
307 I knew of the statement of Mr. Tremoulet, made to Carite in my presence, that if he bought in the property for his claim, and if Carite or Mrs. Carite, if she was spoken of, should pay the costs and make his claim secure that he would sell him the property.

Q. Not to Mrs. Carite particularly?

A. I have already said three or four times, I can't recollect whether before the sale, in these conversations, that the name of Mrs. Carite was mentioned. I am inclined to think they didn't, though it may have been.

Q. Didn't Mr. Carite inform you, before you instituted your proceedings against him in the U. S. circuit court, that Mrs. Carite was going to be separated in property from him?

A. I am sure that he did not.

Q. Didn't Mr. Carite inform you that Mrs. Carite was going to be separated in property from him, before Mrs. Carite had filed her suit for the dissolution of the community in the court of St. James Parish?

A. I didn't know that she had filed a suit; the only way in
308 which I know it was either from a letter written to me by Mr. Poché, or from a conversation with Mr. Poché.

Q. Prior to the 10th of February, 1873, the date on which you instituted your suit against Mrs. Carite, didn't Mr. Carite inform you that Mrs. Carite was about to sue him for a separation of property?

A. I am sure he did not, and the reason why I am perfectly sure is this: As I have already stated, in all the conversations which I had with Mr. Carite, before I made my seizure, the subject-matter of our conversations was the possibility of Mr. Carite arranging with his creditors so as to prevent the seizure of the property. My recollection is that before I saw Mr. Carite at all I had prepared my bill, and after my interview with Mr. Carite, in consequence of his representations of his power to obtain time from his creditors, I delayed filing my bill; and my bill was only filed, I think—the record in the suit of Neal & McIntyre will show that fact—on the day after learning of the Neal seizure.

309 On that day I went to the U. S. court for some purpose or another and found this seizure there, or probably Carite may have written to Tremoulet or sent him the papers which had been served upon him, or came to the city and informed him. At any rate I immediately went into the marshal's office, and the marshal told me that a deputy marshal and keeper had gone up on the boat the evening before with instructions to remove the property. I went immediately to Tremoulet's office and told him the condition of affairs, and that the property would be stripped of all movables, and I advised him to seize immediately. I then went to the judge's room, got the order, and went up on the first boat with a deputy marshal and keeper, in order to get to the plantation in time to prevent the removal of the movables.

Q. Judge, it appears from the testimony of Mr. Tremoulet, and the letters which are annexed to his depositions in this case, that on the 7th of February, 1873, three days before you instituted your suit in the U. S. circuit court, Mr. Tremoulet wrote to his principal, Mr.

310 J. B. Clément, to this effect: "That by an arrangement with him, (meaning Carite) he will make no objection to the seizure and the sale of the immovables, and will rather facilitate the execution, on condition, that if anybody will buy at a higher sum than is due, to buy the immovable, in your name (Clement), I engaging myself to resell it to his wife from him, who is separate in property, at a price which will cover all that is due, interests, costs of court, and attorney's fees." How do you reconcile that statement made by Tremoulet to his principal in France, on the 7th of February, 1873, with your testimony, if you knew all that Tremoulet was doing?

A. I haven't said that I knew all that Tremoulet was doing. I reconcile that statement perfectly in my mind. Now, that I see that letter, I am inclined to the belief that Tremoulet did what he says there, and as I was his regular legal adviser he must have spoken to me about the resale to Mrs. Carite. That letter carries out the agreement

311 perfectly, as he told Carite in my presence twenty-five times, "We don't want this property, we will bid it in for the amount of our claim, and help you," or Mrs. Carite—I suppose he did mention Mrs. Carite, from that letter—"to get back the property." Of course, it was understood that he would put no impediments in our way, that he would take out no injunction or anything of that sort, but he would facilitate us in every way. Why, I think you will find that some of the papers—no, I don't know that they would show that; but such is the fact, that after the seizure Mr. Carite was in the city, and there were some papers to be served on him, and I met him on the streets and informed him that certain papers would be served on him, and he immediately went to the marshal's office and had the papers served on him there. If I recollect right, he went there under my instructions; that was after the seizure.

Q. Well, judge, this letter that I have read to you seems to show

that on the 7th day of February, or prior to that date, there was
312 a contract or understanding between your clients, Tremoulet and Carite, that all these proceedings were to be carried on at Carite's costs, and your client was to bid the property in, and afterwards resell it to Mrs. Carite.

A. I don't think that the letter says anything of the kind. The letter says we are agreed to push on that property up to our claim, and make a resale of it if we buy upon the reimbursement of the costs and security for our claim.

Q. There was such an agreement before you entered your executory process?

A. The date of the filing of the Neal and McIntyre writ will make that perfectly clear. I didn't charge my memory with that fact. After the Neal & McIntyre seizure, or after the institution of that suit, it may be that Tremoulet was informed of the seizure by Carite, and in consequence of his informing him of that fact, and his determination to seize, that understanding was made, or it may have been before, and Mr. Tremoulet said, "Very well; you cannot arrange your affairs; we will seize and keep alive this agreement if you put no impediments in our way."

313 Q. I understand you to say that this agreement set forth in this letter was not the agreement.

A. I consider it was the agreement.

Q. Made prior to the institution of the suit?

A. Yes; the date of that letter brings to my mind that Tremoulet must have talked at that time to Carite. I think that letter expresses in plain language the agreement made with Carite, on condition that he could arrange with his creditors before our seizure, likewise at the time of the seizure, at the sale and after the sale.

Q. Did you know at the date of this letter, 7th February, 1873, that Mrs. Carite was separate in property from her husband?

A. I didn't know, and I don't know that she is separate in property now except from the letter of Mr. Poché.

Q. This letter also sets forth that during these proceedings that you were undertaking that Carite was to continue the cultivation of the plantation like his own.

A. Certainly; that was understood when I made the seizure.

314 Q. You made it after the property was sold to Tremoulet?

A. Except we were responsible as to the cost of working the place. When I went up there I became convinced that Carite wasn't a proper man to manage the plantation, and I wrote to a gentleman in St. James to look out for somebody to put on the plantation during the season. He wrote to me that the overseer that Carite had was one of the best overseers in the parish. I knew that if we bought this property it was to our interest that this growing crop should be taken care of, and if we didn't buy it that it would increase the chances of selling the property.

Q. Does it not appear to you, after reading this letter, that there was an agreement between Tremoulet and Carite by which Carite was to pay all the costs in these proceedings?

A. No, sir; he was to pay the costs in the event we would buy and resell to him or his wife, as already stated.

Q. Carite was never dispossessed of the property?

A. He was never physically dispossessed.

315 Q. Tremoulet never assumed control or management of the plantation?

A. No, sir; except the control and management that I have described.

Q. At the time you instituted these executory proceedings, Clement had a vendor's lien and first mortgage on Carite's plantation?

A. Yes, sir.

Q. After you had resold the plantation to Mrs. Carite, did you have any other or better security?

A. I think a great deal better, for the simple reason it was not then liable to seizure by others and the best proof of the improvements, of the value to us, by means of our purchase, was that we were forced to seize to prevent others from stripping the property of the immovables by destination.

Q. Did it make your security better, your seizure and subsequent resale to Mrs. Carite, by divesting the plantation of all liens?

A. I think it prevented it from being levied upon. I told my client at the time it would not be safe for him not to act.

Q. Did you ever have any personal acquaintance with Mrs. Carite?

316 A. I had never seen the lady until I went to the house to make the seizure.

Q. Did you ever have any business conversation with her?

A. No, sir.

Q. All this business was carried on by Mr. Carite?

A. I don't know what business Mr. Tremoulet may have carried on with Mrs. Carite. I know I went with the deputy marshal and keeper to the house and spent the night and a portion of the day there and I was entertained by Mrs. Carite, who did all she could to make us comfortable, and I recollect I felt great pity for her.

Q. You did no business with her?

A. No, I never did.

Q. Who paid the costs of these executory proceedings?

A. I think I did myself.

Q. Who reimbursed you?

A. Mr. Tremoulet. Mr. Tremoulet was a client of mine and I had money in my hands belonging to him; there was a running account between us. I found in looking at my check-book the check I gave to the marshal for the costs, and my recollection is, that in the set-

317 tlement of this matter, before the act of sale was passed, other moneys came into my hands for Mr. Tremoulet and in the settlement with him I took out the money which I had disbursed. Some of the costs paid by me for Tremoulet's account was settled on the passage of the act of sale. Whether Tremoulet settled with me personally after or before the sale, or Mr. Soniat, the notary, did, I don't recollect.

Q. Didn't Carite pay you?

A. He never paid me a cent's cost in the world. He may have at some time after the sale offered me money in furtherance of the well understood agreement to resell, but whether such money was received by me or not I do not recall. I recollect distinctly that he brought to me, on the last days before the resale was made, a check. I don't recollect the amount, but it was for the amount to cover the cash he was to pay and costs, if the resale was made, but the check wasn't sufficient in amount and I referred him to Mr. Tremoulet and Mr. Tremoulet refused to take it or make the resale. It was then I offered to waive my fee. Mr. Tremoulet refused to allow that, but the note for my fee was given and made last in rank to all the notes.

318 Q. Tremoulet took that in his possession?

A. Yes, sir.

Q. And subsequently collected it and paid you?

A. Well, I really don't recollect whether the note matured before I got my money. I think Mr. Tremoulet gave me the money and placed the note in bank. I understand the note was paid by Duvion and Ricaud. When this man Carite came to me with that check and Tremoulet refused to make the sale, I found that my fee was the obstacle or sum which rendered the check inadequate. I said, "Very well, I won't stand in the way of these people and I can wait," but Tremoulet refused to do that, because he didn't want any concurrent mortgage.

Q. Do I understand you to say you never received any money from Carite?

A. I never received a cent from him.

Q. The cash that was paid was paid to Tremoulet without your being present?

A. I can't say. I don't recollect whether it was paid by check or how it was paid, or whether the check handed me was collected or
319 was returned to Carite; at all events the sum required was paid by Carite or Mrs. Carite contemporaneously with the resale.

Q. Who was present there at the time the act of sale from Tremoulet to Mrs. Carite was passed?

A. I don't recollect. Mr. Soniat, the notary, had his office in Mr. Bermudez' office.

Q. Was Mrs. Carite there?

A. I don't think she was. The truth of the matter is this, the act of sale is a long one, as you see, and had to be carefully written. I wrote it myself, originally, but my handwriting was so very illegible that Mr. Soniat sent for me to read it to him while he copied it.

Q. You know nothing *for* the suit *of* separation?

A. No, sir.

Q. No copy of it was ever sent to you? You never examined that record to see whether it was a valid judgment or not?

A. No, sir.

Oath and signature waived.

After reading my cross-examination I desire to add that from
320 the moment Tremoulet bought the property at the sale of the marshal, I consider that under his agreement he was under obligation to sell either to Carite or his wife for the amount of his claim and all costs, and my recollection is that such was the understanding of all the parties. My recollection of the main understanding is distinct, but of course the details of the various conversations had in my presence, or of all the incidental matters, is, of necessity, faint. My recollection of the resale is that the agreement was carried out with fidelity, and the effect of the resale was to put Tremoulet in the possession of a vendor's claim, free from all costs and charges, including the portion of debt due on the Citizens' Bank claim, which was, I believe, paid either by Mr. Tremoulet from money received from Mrs. Carite, or directly by Mrs. Carite.

(Signed) EDWARD D. WHITE.

Testimony of A. C. Tremoulet.—Filed January 26, 1877.

321 United States circuit court, fifth circuit, district of Louisiana.

MADAME FÉLICITÉ TROTOT
vs.
MADAME CÉLESTINE CARITE ET ALS. } No. 8041.

Deposition of Antoine C. Tremoulet, a witness on behalf of the complainant, taken before F. A. Woolfley, commissioner of the circuit court of the United States for the district of Louisiana, under and by virtue of a commission issued to him by said court in the above-entitled cause.

NEW ORLEANS, *January 19th*, 1877.

Present, Joseph E. Hornor, esq., for complainant; also present, William E. Murphy, esqr., who makes the following statement, to wit:

"On the part of Madame Célestine Carite I object to the notice being served on me in this case, for the reason that, although I am the general attorney of Madame Carite, I have no mission to represent her in this case as yet. Still I will remain in her interest, Madame
322 Carite not being present, being a resident of the parish of St. James."

Present, also, Mr. Jean M. Brunet, under-tutor.

And the said ANTOINE TREMOULET, witness, being produced, sworn, and examined on behalf of the complainant, deposes and says:

By Mr. HORNOR, for complainant:

Q. You were acquainted with Mr. Casimir Carite?
A. Yes, sir.
Q. You knew him for many years?
A. Yes, sir.
Q. Do you know his wife, Mrs. Célestine Carite?
A. Yes, sir.
Q. Knew her for many years?
A. Yes, sir.
Q. I find that in the spring of 1873 you instituted a proceeding in the United States circuit court for the district of Louisiana on behalf of Mr. Clément against Casimir Carite, to foreclose a mortgage on his plantation in the parish of St. James, and that you caused that plantation to be sold, and that you purchased it in the name of Mr. Clément?
A. Yes, sir.
323 Q. You remember all that?
A. Yes, sir.
A. I wish to ask you now, did you have any interviews or consultations with Mr. Casimir Carite prior to instituting this proceeding?
A. No, sir.
Q. None at all?
A. No, sir.
Q. Were these proceedings instituted in pursuance of any agreement between you and Mr. Casimir Carite?
A. No, sir.
Q. Did you have any agreement with Mr. Casimir Carite relative to these proceedings after they were instituted and before the sale took place?
A. No, sir.

Q. None at all?
A. No, sir.
Q. Did you have any agreement with him in relation to that plantation after the sale took place to Mr. Clement?
A. Yes, sir.
Q. I find the sale to have taken place on the 5th of April, 1873; how long after that did you have any agreement or conversations with Mr. Casimir Carite about it?
A. May be Mr. White's attorney, present, will give me the date.
Q. You cannot remember it?
A. No, sir.
324 Q. Was it a short time after it?
A. I do not know.
Q. What was the agreement you had with him in regard to that?
A. No agreement at all. I told him I would give him all facilities to buy the place because I did not want to have the place on my shoulders.
Q. Whom did you tell that to?
A. Mr. Carite.
Q. What did he say in reply?
A. He said he would see his friends, and if his friends wanted to help him, he would accept my proposition.
Q. What was done between you and he?
A. I bought the property and sold it to his wife, he paying all the expenses and everything.
Q. He paying all the expenses and everything?
A. Yes, sir.
Q. Did he pay it to you himself?
A. I would have to my books for that.
Q. But your agreement was made with him?
A. Yes, sir.
Q. Did you have any agreement with his wife?
A. No, sir; I never saw his wife.
325 Q. Did you know anything about the proceedings between himself and his wife for a separation of property?
A. Knew that he got a separation.
Q. Did you know he was going to do that before he got the separation? Did he tell you he was going to get one?
A. I believe so; but I am not certain.
Q. When you foreclosed that mortgage was all the amount of money due that you then said was due?
A. It was all due which I sued for; there was nothing paid.
Q. Nothing paid at that time?
A. No, sir.
Q. Why did you sell it back to him for? For the same amount?
A. I do not remember. I sold the plantation for $55,000 at the time to C. L. Copponex, J. Bernard Moulor, and Casimir Carite.
Q. But I speak of the second sale, when you sold the property next.
A. I sold the property to Mr. Carite.
Q. Had you any negotiations for that sale, and who were they made with?
A. Which negotiation?
Q. The negotiations which led to the sale to Carite.
A. With Mr. Carite, with the understanding that his wife would accept everything.
326 Q. You sold to her for the amount that was then due?
A. She paying all fees; yes, sir.

Q. Were these fees all paid?
A. Yes, sir; they were paid.
Q. Whom by?
A. By her.
Q. Through whom?
A. Through her agent here.
Q. Who was her agent here?
A. I think Duvian & Ricaud.
Q. Did not Mr. Carite pay them?
A. I don't know who paid them, but I know they were paid.
Q. Was it not paid to you directly, the money?
A. No, sir; it was paid, I think, through Mr. White.
Q. How much did these costs and charges amount to?
A. I do not remember.
Q. From the time that you instituted these proceedings against Mr. Carite in the United States circuit court, until the time you sold to Mrs. Carite, did not Mr. Carite live on that place all that time?
A. Yes, sir; and I was very thankful to him for living there, because it was a service rendered to me, that he should stay on the
327 place to take care of everything and manage the crop.
Q. When he and his wife remained there after the seizure just the same as before?
A. Yes, sir.
Q. Just the same as if there had been no seizure at all?
A. Yes, sir.
Q. Before you made this arrangement to sell to Mrs. Carite was not some arrangement made between you and Mr. Carite?
A. What kind?
Q. A lease, or such?
A. No, sir.
Q. These proceedings were not instituted at the request of Mr. Carite at all?
A. No, sir; it was mine.
Q. Your own act?
A. Yes, sir.
Q. Was Mr. Jean B. Clément informed of your procuring this writ of seizure?
A. Yes, sir; he was advised of everything that transpired.
Q. Was he advised of that sale to Mrs. Carite?
A. Yes, sir; of everything.
Q. Before the sale?
A. No, sir; as soon as the sale was signed and perfected, I gave him notice.
328 Q. Not until then?
A. I might have told him I was closing the sale with Madame Carite.
Q. That would be by letter?
A. Yes, sir.
Q. Did you keep copies of these letters?
A. Yes, sir.
Q. Can you furnish us with copies of these letters to Mr. Clément in relation to this property about that time?
A. Yes, sir; I will see.
(Mr. Horner, on behalf of complainant, calls upon the witness for copies of the letters written by him to Mr. Clément.)
Q. From the time that you bought this property under this mar-

shal's sale until the time that you sold it to Mrs. Carite, did you reap any benefits or profits from the plantation?

A. None at all.

Q. Who did reap the benefits and profits of that plantation during that time?

A. Nobody.

Q. Nobody at all?

A. No, sir.

Q. There were none?

A. No, sir.

Q. Was not there a growing crop upon it?

329 A. Yes, sir; but I sold the plantation with the crop on it.

Q. And therefore Mrs. Carite reaped these benefits?

A. Yes, sir.

Q. Mr. Carite was there still living on the place managing?

A. Yes, sir.

Q. Since that sale, has anything been paid upon this debt?

A. Every year.

Q. Every year there has been something paid on this sale to Mrs. Carite?

A. Yes, sir.

Q. How much is due upon it?

A. $8,509, in notes renewed until next December. That is the only amount due now.

Q. That is all due from the claimants now?

A. Yes, sir.

Q. Does that bear interest?

A. Yes, sir; he paid the interest in advance.

Q. Up to next December?

A. Yes, sir.

Q. You say payments were made to you on account of this every year?

A. Yes, sir.

Q. Whom by?

A. By Mr. Carite, or his agent.

Q. Sometimes by Mr. Carite?

330 A. Well, I don't remember exactly, but it was Mr. Carite or his agent.

Q. What was the name of his agent?

A. Duvian and Ricaud.

Q. They were his agents before the sale to Mrs. Carite as well as before?

A. No, sir; until she made the first crop.

Q. They were not her agents before that?

A. Not that I know.

Q. How much money did Mr. Carite or Mrs. Carite pay you for the privilege of remaining on the plantation during the time from the 5th of April, 1873, to the 22nd May 1873, that you speak of?

A. I did not claim anything. I was perfectly satisfied that they should remain on the place to keep it in order.

Q. Did your ever lease the plantation to Mrs. or Mr. Carite?

A. No, sir.

Q. Did you ever pay for the supplies at all, for running the plantation during that period?

A. No, sir, nothing.

Q. Did you ever sell any of the plantation produce or live stock during that time?

A. I sold part of the crop.

331 Q. That was after the sale to Copponex & Co.?

A. No, sir, to Mr. Carite.

Q. You sold a part of the first crop.

A. A part of it to pay a certain amount he owed me.

Q. When was that? After the sale to Mr. Carite?

A. Yes, sir.

Q. How much was that?

A. I don't remember.

Q. Well, about——several thousand dollars?

A. I do not remember.

Q. After the sale to Mrs. Carite?

A. Yes, sir.

Q. What did Carite owe you that for?

A. If I had my books I would tell you that.

Q. Was it for these notes?

A. I don't know. It was for interest and such things.

Q. But he paid that by——

A. He consigned to me a certain amount of sugar to cover it.

Q. That indebtedness was outside the mortgage?

A. I do not remember; I think it was inside the mortgage.

Q. That part of the crop was consigned to you by Carite himself?

A. Yes, sir.

332 Q. You sold it and furnished an account to him?

A. Yes, sir.

Q. Will you furnish me the account of that?

A. Yes, sir.

(Mr. Hornor, for complainant, calls for the account of the consignment above referred to.)

Q. Did you reap any benefits from the said plantation from the 5th April, 1873, to the 22d May, 1873, for Mr. Clément's account?

A. No, sir.

Q. Did Mr. Carite ever state to you why he wanted this plantation sold to his wife, and put in her name?

A. I believe he had so much debt on it he wanted to get a separation of property from his wife.

Q. To get rid of the other debts?

A. I believe so.

Q. Did Mr. Carite state to you that he had given notes to Moulor?

A. No, sir.

Q. He never spoke to you about the notes given to Moulor?

A. No, sir.

333 Q. Did you know who bought out from Moulor his share in the plantation before you sold it? You remember that originally you sold the plantation to Copponex, Moulor, and Carite, and that afterwards Moulor and Carite bought out Copponex, and that then Carite bought out Moulor.

A. Yes, sir.

Q. Did you know that Carite gave Moulor $55,000 in mortgage notes for his share, when he bought him out?

A. No, sir, I did not know that.

Q. Carite never told you about owing that money to Moulor?

A. I knew he owed some, but not such an amount.

Q. Did he tell you he ever intended to pay Moulor that money?

A. No, sir.

Q. Before you bought this property at marshal's sale, did you know that Mrs. Carite was going to institute proceedings against her husband for a separation of property?

A. Yes, sir; I believe I knew.

Q. Who told you that?

A. Mr. Carite.

Q. Did he give you any reason?

334 A. Because he was overindebted.

Q. And to relieve himself of his indebtedness, he was going to get a separation from his wife?

A. He did not tell me that for the reason.

Q. But he told you it was for the purpose of buying the plantation in his wife's name that he got the separation?

A. No, sir; he did not tell me that.

Q. I understood you to say that the costs of the proceedings in the United States circuit court which you took and which resulted in the marshal's sale to you were paid afterwards by Carite.

A. Yes, sir; the whole costs. It was my agreement in selling.

Q. You cannot remember how much they amounted to?

A. No, sir.

Q. It was several hundred dollars.

A. I do not remember.

Q. Can you give us a statement from your books of that at your leisure?

A. Yes, sir.

335 (Mr. Hornor calls for a written statement of the amount of costs paid as referred to above.)

Cross-examined by Mr. MURPHY, for Madame Carite:

Q. Was the amount which you brought suit against Mr. Carite really due to Mr. Clément?

A. Of course.

Q. All of it?

A. Yes, sir.

Q. Really due and fairly due?

A. Yes, sir.

Q. Was there any conspiracy or arrangement between Mr. Carite, Mrs. Carite and yourself for the purpose of your provoking this sale for the purpose of getting rid of the other mortgage creditors?

A. No, sir.

Q. No agreement or proposition of any kind?

A. No, sir.

Q. When first you determined to make this seizure were you not?

A. The reason I made the seizure was because Mr. Carite owed some horse dealer and he seized some mules on the place, and that determined me to seize at once.

Q. There were moveables seized on the place and to save the debt of Carite you seized the property?

A. To save Mr. Clément's?

336 Q. To save Mr. Clément's interest you seized the property?

A. Yes, sir.

Q. When this property was seized under Mr. Clément's writ did not Mr. White go up there accompanying the marshal for the purpose of having the seizure made by the marshal and having a keeper placed there?

A. Yes, sir.

Q. They went up there for that purpose?

A. Yes, sir.

Q. Did not Mr. White communicate to you that he thought it would be for your interest as well as the interest of all concerned that Mr. Carite should be left on the place to take care of the plantation and the crops from the time of the seizure to the day of sale?

A. That was the agreement between myself and Mr. Carite.

Q. It was for the purpose of taking care of the plantation?

A. Mr. White never mentioned that to me.

Q. Whom was the agreement made with? It was agreed that he should stay there for the purpose of taking care of the plantation?

337 A. Yes, sir; and I was very much obliged to him for he saved me money by remaining on the place. I was very much satisfied.

Q. It was for the interest of Mr. Clément that you did that?

A. Yes, sir.

Q. You state that the costs in the case were paid; whom were they paid by, do you say?

A. Mrs. Carite.

Q. To whom? Was it not Mr. White that paid them?

A. Yes, sir.

Q. And he was refunded by Mrs. Carite on the sale?

A. Yes, sir, and by myself.

Q. You have spoken of Messrs. Duvian and Ricaud as being the agents of Mr. Carite; is it not Mrs. Carite whose agents they were?

A. Duvian & Ricaud are the agents of Mrs. Carite now, but they were the agents of Mr. Carite at the time Mr. Carite carried on business through Duvian and Ricaud for his wife.

Re-examined by Mr. HORNOR:

Q. I would like to know about these costs; it makes a difference whether they were paid by Mrs. Carite or by Mr. Carite; that is

338 the costs of this suit which resulted in the marshal's sale to you?

A. It was all the same.

Q. You do not know which one paid them?

A. No, sir.

Q. You do not know which one handled the money?

A. Of course I thought it was Mr. Carite handled the money but for account of his wife.

Q. The money was paid to you by Mr. Carite directly—the money for these costs.

A. These costs were paid, I believe.

Q. I find, from the record here, that you purchased this plantation at marshal's sale on the 5th of April, 1873, and that you sold it to Mrs. Carite on the 22d May, 1873, a little less than two months. How came you to sell it so soon after buying it?

A. Because I did not want to keep it on any account. I wrote to Mr. Clements that I would not like to take charge of the plantation on any account, as I knew what it was.

Q. Your object was merely to secure the amount due upon the mortgage?

A. Yes, sir.

339 Q. After you sold it to Mrs. Carite did you have any business transactions in relation to the plantation with Mr. Carite?

A. No, sir.
Q. You never saw him at all.
A. Mr. Carite?
Q. Yes.
A. After this sale?
Q. After the sale to Mrs. Carite.
A. Yes, sir. I saw him all the time.
Q. Did you see him in relation to the payment?
A. No, sir; it was agreed that what was due was paid.
Q. You saw him about business.
A. I saw him about business on that account, to receive the amount of the notes due.
Q. Did he at this time act for himself or as the agent of Mrs. Carite?
A. Yes, sir; but I knew it.
Q. How did you know?
A. I knew it was for that.
Q. Did you have any transactions with Mrs. Carite personally after that?
A. Yes, sir; whenever she would come to the city she would call on me.
Q. Did she ever pay you money?
A. Yes, sir; she paid me money.
Q. Personally?
A. No, sir.
Q. You were secured by the sale of Copponex & Co. by a vendor's lien as well as a mortgage?
340 A. Yes, sir.
Q. When you sold to Madame Carite you were secured also by a vendor's lien as well as a mortgage?
A. Yes, sir.
Q. Do you think you were any better secured by the sale to Madame Carite than by the sale to Copponex & Co.?
A. Yes, sir; because Mr. Carite was to see some of his friends who were to come and help him to buy it in?
Q. To buy it in.
A. Yes, sir; for his wife to buy it in. He came down to the city to get some aid from his friends.
Q. When was that; before the marshal's sale?
A. No, sir; after the sale to me.
Q. After the proceedings taken by Mrs. Carite?
A. Yes, sir.
Q. She paid you nothing in cash except these costs?
A. Well, I cannot remember. I think the consignment of sugar she made me was to pay for that.
Q. Did Mr. Carite represent to you that he could not raise this money unless he had the title in his wife's name?
A. No, sir; he never mentioned it.
341 Q. But you think you had better security by your sale to Mrs. Carite than by your sale to Copponex & Co.?
A. Yes, sir, of course. Mr. Copponex was dead and Mr. Moulor was dead and nobody left but Carite.
Q. Did not Mr. Carite tell you that if he could transfer the title to his wife he would be able to get rid of his other debts and be able to pay you better?
A. No, sir; he never told me so, but I presume it was so.

Q. You presume it so from his proceedings?
A. Yes, sir.
(Signed) A. C. TREMOULET.

Subscribed and sworn before me January 19, 1877.
(Signed) F. A. WOOLFLEY,
Comm'r U. S. Circuit Court.

Mr. Jean B. Brunet, under-tutor, being present, states that he does not desire to ask the witness any questions.

Letters of A. C. Tremoulet to J. B. Clément.

(Copies.)

N'ELLE ORLÉANS, 7 *février* 1873.

AFFAIRE CARITE.—Ce monsieur, actuellement le seul propriétaire de l'habitation, se trouvant très-embarrassé, endetté par son
342 associé Moulor l'habitation grevée de dettes, a dû renoncer au renouvellement des billets échus.

Par un arrangement avec lui il ne fera aucune objection à la saisie et à la vente de l'immeuble, en facilitera plutôt l'execution, à la condition que si personne n'enchérissait au delà de la somme qui vous est dûe achetant l'immeuble en votre nom. Je m'engage à le revendre à sa femme (dont il est séparé de biens) à un prix qui comprendrait tout ce qui vous est dû, intérêts, frais de cour et d'avocat. Les intérêts accrus payables comptant.

L'acceptation de Bouligny et Esclapon, qui a été donnée pour des intérêts, n'ayant pas été payée à l'échéance, devra entrer dans ce règlement. Les termes ne sont pas encore fixés, et le seront incessamment. Je ne serai pas trop exigeant, sachant que Mr. Carite continue la plantation à ses frais et que tout présage une bonne récolte.

Comme je vous l'ai déja dit, cette propriété a été reconstruite à
343 neuf; elle est en parfaite condition et couvre l'hypothèque dont elle est grevée.

Cependant, je dois vous dire la dépréciation des propriétés foncières de ce genre. Quand vous saurez que la grande habitation Valcour Aimé s'est vendue $50,000, comptant vente par le shérif celle de notre regretté ami Sr Fagot $40,000, comptant cette dernière vente pour effectuer un règlement avec les petite enfans, les deux héritières, Félicie et Eugenie, l'ont achetée.

N'ELLE ORLÉANS, 3 *mars* 1873.

AFFAIRE CARITE.—Tout s'est passé sans encombre. J'arrive de S. Jacques après avoir acheté l'immeuble en votre nom aux deux tiers de l'estimation, c. a. d., $24,385.70, avec tout ce qui se trouve sur les lieux—29 mulets au lieu de 45 qu'il y avait, 10 mulets n'ayant pas été payés; les vendeurs ont obtenu de la cour le droit de les reprendre. Il n'y a aucune enchère que la mienne. Dans le cas où l'habitation aurait rapporté de quoi courrir intégralement votre créance, capital et intérêt, il était entendu que je ne l'a rachetais pas, mais rentrais dans vos fonds.

344 J'ai trouvé l'habitation en parfait ordre, beaucoup mieux que je ne le pensais, une récolte de 155 arpents plantés en plein et environ 140 arpents en souches. Enfin tout a été rénouvelé a neuf. Maintenant j'attends Mr. Carite pour en repasser la vente à sa dame aux condi-

tions convenues. Il est bien entendu que vous ne devez supporter aucun frais, la vente n'ayant été faite que pour dégager l'habitation des embarras où l'avait placée Mr. Moulor.

En attendant j'ai effectué une assurance de $25,000 sur la sucrerie, les deux résidences, et les écuries, qui sera à la charge de l'acquéreur.

Vous me demandez qu'elle objection à la saisie pourrant faire Mr. Carite à la vente de l'immeuble. Il aurait pu retarder la vente et en attendant laisser tout aller au diable. Vous oubliez sans doute que l'affaire Pinckard est à règler à cause de la mauvaise foi des héritiers, qui emploient tous les moyens possibles pour retarder la vente de l'habitation. J'ai craint aussi que Mr. Carite aille en cour des États-Unis, alors le curateur chargé des liquidations, non seulement
345 porte des frais énomes, mais il ne rend compte aux créanciers que quand bon lui semble et quand cela lui courient.

Une autre raison majeure c'est que je ne pouvais vous rendre justice en me chargeant d'administrer ce bien à la distance où je suis. Aujourd'hui la gérance d'une habitation n'est pas comme au temps de l'esclavage. Un économe à la main haute avec les travailleurs; il peut vous charger ce qu'il ne paie pas; en outre les frais de tous genres sont doublés. L'œil du maitre sur les lieux est indispensable pour sauvegarder ses intérêts. On ne peut se fier au meilleur des économes. Il y a toujours gaspillage. Bref, je préfère, dans vos intérêts, revendre l'habitation en prenant toutes les précautions possibles, plutôt que de la faire travailler pour votre compte, nonobstant la belle perspective de la présente récolte.

N'ELLE ORLÉANS, 26 *mai* 1873.

Je ne vous ai pas écrit depuis le 10 de l'écoulé dans l'attente de terminer d'un jour à l'autre la vente de l'habitation à Madame
346 Carite, comme vous en avez été informé. Ce n'est que ces jours derniers que le marshal des États-Unis a pu me donner votre titre, aussi me suis. Je hater d'en passer la vente, en votre nom, à Madame Carite, au prix de $44,461.14, somme comprenant tous les frais encourus, la dette à la Banque des Citoyens, ainsi que le montant de votre créance. Voyez la Note A, ci-incluse, s'élevant à.... $35,029 51
La dette à la Banque des Citoyens..... 5,573
Les frais de cour, taxes, &c..... 2,158 63
Les honoraires de l'avocat..... 1,700

$44,461 14

En outre des frais de cour, d'avocat ci-dessus s'élevant à.. 3,858 63
Madame Carite a dû payer les assurances sur les édifices, les frais de notaire, aussi..... 527 20
Que la contribution et la réduction sur le stock-note à la Banque des Citoyens..... 7,661 45

Formant un total de..... $6,047 28

Cet énorme déboursé est cause que Madame Carite n'a pu faire son premier paiement au comptant comme elle en était convenue, c. a. d., de payer tous les intérêts accrus, jusqu'au jour de la vente, qui étaient de..... 6,386 54
347 Elle n'a pu payer que..... $1,243 73
Plus un billet à 60 jours de date de Dumestre. $800
Moins l'escompte..... 14 92

785 78

(héraires.

Supreme Court of the United States.

MDME. CARITE
vs.
MDME. TROTOT. } No. 276.

If it be not improper, I desire to correct a statement made by me in the course of the argument in response to a question propounded by the chief justice.

I was asked whether or not the complainant could have done anything to protect or assert her rights as against the second mortgagee seeking to foreclose his mortgage by executory process.

I answered "No."

That answer was correct on the hypothesis that Clement, the second mortgagee, held a *bona fide* mortgage, as claimed by him; this was in my mind at the time of the answer; but if Clement was not a *bona fide* mortgagee, as alleged in the bill,—if his claim was a mere simulation, there is no doubt that the complainant could have interposed by injunction and arrested the sale; or if Clement was not a *bona fide* mortgagee to the extent claimed in his petition for executory process, the complainant could have intervened, by way of third opposition, before or after the sale, and claimed the proceeds of sale, and thus compelled him to establish the verity of his mortgage and the amount thereof contradictorily with her, just as has been done in this suit.

Respectfully submitted,

THOS. J. SEMMES,
of Counsel for Appellants.

nvenues. Il est bi
ais, la vei
arra

Et a fourni les cinq billets suivants, tous hypothécaires, portant 8 % intérêt de leur date à échéance, savoir:

1 billet payable 15–18 déc. 73						$7,500	
2	"	"	"	" '74, de $42.50		8,500	
1	"	"	"	" '75		8,500	
1	"	"	"	" '76		8,500	
							33,000 00
Montant de votre créance						$35,029 50	

J'ai dû accepter de Madame Carite une somme moindre de celle qui étaiet convenue, afin d'effectuer la vente de cet immeuble, et cela dans vos intérêts il était préférable d'accepter ces conditions plutôt que de gareter la propriété et la faire valoir pour votre compte, au prix du travail aujourd'hui.

Dans le cas où j'eusse refusé de m'entendre avec Madame Carite je n'aurais pu trouver un acquéreur qui eut pris l'habitation aux mêmes conditions. Rappelez vous qu'elle vous a été adjugée à $24,385.70, et qu'il n'y eut d'autre enchère que la vôtre

Pour la simple mise en possession il vous eut fallu débourser
348 $6,047.28 et puis administrer le bien ce qui eut dévoré vos autres ressources. Non! Je vous le dis sincerement, il est bien heureux que les choses aient pu s'arranger comme elles l'ont été, et puis vous savez que je ne voudrais sous aucune consideration administrer une habitation à la distance où j'en suis, sachant que je ne pourrais vous rendre justice. Car, voyez vous, tout ce que je pourrais vous dire de la situation actuelle du pays ne vous en donnerait pas une idée. Il faudrait être sur les lieux pour la juger. En somme je crois avoir sauvegarate vos intérêts en disposant été ce bien dont vous êtes parfaitement garanti.

Par l'acte de vente Madame Carite s'engage à me consigner tout le premier sucre fabriqué jusqu'à concurrence de la somme dûe en décembre prochain. Elle s'oblige à renouveler les assurances annuellement dont les polices vous sont transférées en cas d'incendie.

Madame Carite aura la facilité de renouveler le troisième billet échéant en décembre 1875, moyennant paiement des intérêts acernes à son échéance, et payer par anticipation ceux accrues sur le der-
349 nier billet de 1876 à la date décembre 1875. Tout billet non payé à son échéance donnerait le droit de réclamer tous ceux non échus. Il en serait de même des paiements annuels à la Banque des Citoyens qui faute d'être ponctuellement payé, donneraient les mêmes droits de poursuivre pour la totalité des billets non échus.

L'avocat White a rédigé lui-même l'acte de vente et n'a rien négligé pour vous protéger. J'aime à croire que vous serez intégralement payé de cette vieille dette de Jacob.

NOTE A.

1873.				
Jan. 18.	Billet Copponex & Co., renouvelé échu ce jour	$9,559		
	Int. au 23 mai, 125 jours, @ 10 %	331 90		
				9,390 00
Fév. 3.	Billet Copponex & Co., renouvelé échu ce jour	9,559		
	Int. au 23 mai, 109 jours, @ 10 %	239 42		
				9,343 42

	3. Mandat Moulor & Dumestre sur Bouligny & Esclapon, échu ce jour	2,797 90		
	Int. au 23 mai 1873, 109 jours, @ 10 %	84 71		
			2,882	61
Mai	23. Billet Copponex & Co., 4 sept. 1869, payable 4 sept. 1873, portant intérêts	9,559		
	Int. 3 ans 26 jours, @ 8 %	2,848 58		
			12,407	58
	Total		$35,029	51

350 *Madame Célestine Carite, son compte avec A. C. Tremoulet.*

DOIT.

1873.				
Déc.	3. A son billet daté 23 mai 1873, portant 8 % d'intérêts de sa date	7,500		
	200 jours d'intérêts, @ 8 %	333 33		
			7,833	33

AVOIR.

Nov.	7. Par net produit 39 B. melasse, p'r Lizzie Hopkins	$920 81		
	15. " " 51 barils melasse, p'r St. John	978 63		
	19. " " 27 boucants sucre, p'r Lizzie Hopkins	1,919 06		
	30. " " 33 boucants sucre, p'r Lizzie Hopkins	2,516 24		
Déc.	8. " " 30 boucants sucre, p'r St. John	1,457 29		
			7,792	03
	Balance dû à A. C. Tremoulet		$41	30

N'ELLE ORLÉANS, 9 *décembre* 1873.

DISTRICT OF LOUISIANA, *ss:*

351 I, F. A. Woolfley, commissioner of the circuit court of the United States for the district of Louisiana, do hereby certify that the foregoing deposition of Antoine C. Tremoulet, a witness, on behalf of the complainant, was taken, de bene esse, before me, by virtue of the annexed commission, issued and to me directed by said court, that the said deposition was taken on the day named in the caption thereof, in my presence and of the said counsel, and was subscribed by said witness.

I further certify that the copies of "letters from A. C. Tremoulet to J. B. Clément hereto annexed as a part of said deposition were furnished by the said witness at the request of counsel for complainant.

Witness my hand and seal on the 26th January, 1877.

[SEAL.] (Signed) F. A. WOOLFLEY,

Comm'r U. S. Circuit Court, District of Louisiana.

Commission annexed to testimony of A. C. Tremoulet.

Circuit court of the United States for the fifth judicial circuit, holding sessions, in and for the district of Louisiana.

352 To F. A. Woolfley, commissioner, circuit court of the United States, district of Louisiana.

Know ye that reposing special trust and confidence in your integrity and ability, we hereby authorize and require you that you call and cause to come before you Antoine C. Tremoulet, and him duly examine, de bene esse, on oath, touching and concerning certain matters and things in a case now depending in the said court wherein Mrs. Félicité Trotot is plaintiff and Mrs. Célestine Carite et als. defendants, and the same examination, so taken and reduced to writing, you certify under your hand and seal, and send enclosed to this court, without delay, to be read in evidence on the trial of said cause, and send also this writ.

Witness the honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, at the city of New Orleans, this 16th day of January, anno Domini 1877, and the 101st year of the Independence of the United States of America.

(Signed) F. B. VINOT, *Dy Clk.*

353 TRANSLATION.

(Copies.)

Letters of A. C. Tremoulet to J. B. Clément.

NEW ORLEANS, *7th February*, 1873.

CARITE CASE.—This gentleman, at present the sole proprietor of the plantation, finding himself very much embarrassed, covered by debts through his partner, Moulor, has been compelled to renounce the renewal of the notes due.

By an arrangement made with him, he will make no objection to the sale and seizure of the immovables; he will rather facilitate the execution thereof, on condition that I oblige myself, buying the immovables in your name, to resell the same to his wife (from whom he is separated in property), to a price that will cover all that is due you, interests, costs of court and of attorney, provided nobody puts in a higher bid than what is due you, the accrued interests to be paid cash on the spot.

The acceptance of Douligny & Esclapon, which was given to pay interest, is to enter in this settlement, the same not having been paid when due. The terms are not yet fixed, but may be fixed at any
354 hour (time). I shall not be too exacting, knowing that Mr. Carite continues the plantation at his expense, and that everything predicts a good crop. As I have already told you, this property has been entirely reconstructed so as to be new; it is in a perfect condition and covers the mortgage it stands encumbered with. Nevertheless, I must let you know the depreciation of real estate of this kind, when you will know that the large plantation Valcour Aimé has been sold for $50,000.00 cash, the sale being made by the sheriff, the one of our regretted friend St. Fagot for $40,000.00 in cash, this last sale in order to effect a settlement with the grandchildren. The two heirs, Félicié and Eugenié, have bought it.

NEW ORLEANS, 3 *March*, 1873.

CARITE CASE.—All goes on well. Judgment has been obtained; seizure has been made; the property is advertised for sale by the sheriff for

the fourth day of next month. I am waiting for Mr. Carite to make our arrangements for the sale that I shall make to his wife. Mr. Carite continues to work the plantation like his own, with a prospect of making a good crop.

355 NEW ORLEANS, 10*th April*, 1873.

CARITE CASE.—All has passed off without any obstacle. I arrive' from St. James, having bought the immovables in your name for two-thirds of the appraisement, that is $24,385.70, with all what is on the place, 29 mules instead of 45 that were there—16 mules not having been paid for; the vendors thereof have obtained from the court the permission to take them back. There is no bid but mine. In case the plantation would have brought wherewith to cover your debt, capital and interest, it was understood that I would not buy the same in, but would receive the amount due you. I have found the plantation in perfect order, much better than I thought—a crop of 155 arpents of plant-cane, and about 140 arpents of stubble-cane.

Everything has been renovated. Now I am awaiting Mr. Carite, in order to sell the plantation back to his wife on the terms agreed upon.

It is well understood that you shall have to bear no costs, the sale having been made only for the purpose of obliterating the plantation from the embarrassments where Moulor had placed the same in.

356 In the mean time I have effected an insurance of $25,000.00 on the sugar-house, the two residences, and the stables, which will be at the cost of the purchaser. You ask me what objection Carite could make to the seizure and sale of the immovables. He could have delayed the sale, and in the mean time let everything go to the devil. You forget, undoubtedly: that the Pinckard matter had to be settled on account of the bad faith of the heirs, who employ all possible means to stave off the sale of the plantation. I have also feared that Carite might go into the United States court. Then the assignee charged with the liquidation not only causes enormous expenses, but he renders an account to the creditors only when it pleases him and when it is convenient to him. Another important reason is that I could not do you justice in charging myself with the administration of this property at the distance where I am. To-day the running of a plantation is not like in time of slavery. An overseer who is absolute master of the hands can charge you what he does not pay. Besides this, all expenses of this kind are doubled. The eye of the proprietor at the place is in-

357 dispensable in order to watch his interests. You cannot trust even the best of the overseers. There is always wasting. In one word, I prefer'ed in your own interest to resell the plantation, taking all possible precautions, rather than to work the same for your account, notwithstanding the fine prospect of the present crop.

NEW ORLEANS, 26 *May*, 1873.

I have not written to you since the 10th of last month, expecting from one day to another day to close the sale of the plantation to M^me^ Carite, as you have been informed of. In these latter days only could the United States marshal give me your title; to be sure I made haste to pass the sale in your name to Mrs. Carite at the price of $44,461.14, an amount that includes all expenses that have occurred, the debt due to the Citizens' Bank and the amount of the debt due you.

Look at note "A" here inclosed, amounting to.....	$35,029 51
The debt due the Citizens' Bank.....	5,573

Costs of court, taxes, &c	2,158 63
Lawyer's fees	1,700
	$44,461 14
Besides the costs of court and lawyer, as mentioned hereabove, amounting to	3,858 63
358 Madame Carite was obliged to pay the insurance on the buildings, the fees of the notary, as well as the contribution	527 20
And reduction on the stock-note at the Citizens' Bank	1,661 75
Making a total of	$6,047 28

This enormous outlay is the cause that Mad'me Carite was not able to make her first payment in cash as she had agreed to do, that is, to pay all interest accrued until the day of the sale, which were $6,386 54

She was only able to pay		$1,243 73
And a note payable after 60 days of Dumestre	$800 00	
Less discount	14 22	
		785 78

And she has furnished the following five notes, all mortgage notes, bearing 8 % interest from date until due, viz:

1 note payable 15-18 Dec.,	1873	$7,500
2 notes " " "	1874, of $4,250	8,500
1 note " " "	1875	8,500
1 " " " "	1876	8,500
		33,029 51
Total amount due to you		$35,029 51

I have been obliged to accept from Mrs. Carite a smaller amount than the amount agreed upon, in order to make the sale of the immovable', and this in your interest: it was preferable to accept these terms
359 than to keep the plantation and work the same for your account, at the present price of labor. In case I should have refused to effect an understanding with Mrs. Carite, I would not have found a purchaser that would have taken the plantation on the same terms. Remember that it was adjudicated to you for $24,385.70, and that there was no other bid but yours. To be put in possession only, you would have been obliged to pay $6,047.28, and then work the plantation. This would have eaten up your other means (resources). No; I say it to you sincerely, it is very lucky that things could be fixed (settled) as they have been, and besides you know that under no consideration I would work a plantation at the distance where I am, knowing that I would not be able to do you justice; for, you see, all that I could tell you about the present condition of the country (State) would not give you an idea. You would have to be on the spot to judge. Altogether I believe to have well taken care of your interests in disposing of the plantation, which is perfectly (entirely) secured for you.

By the act of sale M'me Carite obliges herself to consign to me all her first sugar until the amount due in next December is liquidated. She binds herself to renew the insurances yearly and transfer the
360 policies to you in case of fire. M'me Carite will have the privilege to renew the third note, due in December, 1875, by paying

the interest accrued at the time when due, and by paying in advance that interest that will be accrued on the last note of 1876, in December of year 1875. Every note unpaid when due will entitle you to claim payment for all not yet due. The same is the case regarding the annual payment at the Citizens' Bank. In case of default of payment of any of them, you will have the right of sueing for the balance of all notes not yet due. The lawyer White has himself prepared the act of sale, and he has neglected nothing to protect you. I am inclined to believe that you will be paid in full this old debt of Jacob.

NOTE "A."

1873.				
Jan.	18.	Note of Copponex & Co. renewed, due at this day	$9,559 00	
		Interest until 23 May, 125 days, @ 10%	331 90	
				9,890 90
Feb'ry	3.	Note Copponex & Co. renewed, due to-day	9,559 00	
		Interest until 23 May, 109 days, @ 10%	289 42	
				9,848 42
"	3.	Draft Moulor & Dumestre on Bouligny & Esclapon, due to-day	2,797 90	
		Int. until 23 May, 1873, 109 days, @ 10%	84 71	
				2,552 61
May	23.	Note Copponex & Co., 4 Sept., 1869, payable 4 Sept., '73	9,559 00	
		Bearing interest 3 years, 261 days, at 8%	2,848 58	
				12,407 58
		Total		$35,029 51

361 *Madame Célestine Carite, her account with A. C. Tremoulet.*

DEBIT.

1873.				
Dec.	8.	To his note dated 23 Mar., 1873, bearing 8% interest from its date	7,500 00	
		200 days' interest, @ 8%	333 33	
				7,833 33

CREDIT.

Nov.	7.	By net proceeds, 39 bbls. molasses, per Lizzie Hopkins	$920 81	
	15.	" " " 51 bbls. molasses, per St. John	978 63	
	19.	" " " 27 hhds. sugar, per Lizzie Hopkins	1,919 06	
	30.	" " " 33 hhds. sugar, per Lizzie Hopkins	2,516 24	
Dec.	8.	" " " 30 hhds. sugar, per St. John	1,457 29	
				7,792 03
		Balance due A. C. Tremoulet		$41 30

NEW ORLEANS, 9 *December*, 1873.

362 *Record of separation, marked XX.—Filed April 3d, 1879.—Filed 13th February, 1873.*

To the honorable the parish court of the parish of St. James, State of Louisiana:

The petition of Célestine Cuny, wife of age of Casimir Carite, residing in the parish of St. James aforesaid, respectfully represents:

That petitioner contracted marriage with her said husband in the city of New Orleans, on the 23d day of April, 1863, and that their domicil has been established in this parish since the beginning of the year 1870. Petitioner further represents that, owing to a series of crushing misfortunes, her husband, who was heretofore possessed of considerable means and property, has lately become hopelessly involved in debt, for the satisfaction of which all his property is now being attached, seized, and disposed of by his numerous creditors; that all of her husband's property will not be sufficient to pay and satisfy the enormous debt which is due by him.

363 That in consequences of the above-recited circumstances, petitioner fears and believes that the earnings of her separate industry may be seized by her husband's creditors, and thus be lost to herself and children, for which reasons petitioner is desirous of being separated in property from her said husband.

Wherefore, the premises considered, your petitioner prays for an order authorizing her to institute this suit against her husband for separation of property, and she further prays for citation according to law on her said husband, Casimir Carite, and, after due proceedings and legal delays for judgment in her favor, for separation of property from her said husband and dissolving the community of acquets and gains heretofore existing between her and her said husband, and condemning him to pay the costs of these proceedings.

And she further prays for all general, legal, and equitable relief, and as in duty bound.

(Signed) LEGENDRE & POCHÉ,
Of Counsel.

Signed in chambers, this 13th day of February, 1873.

(Signed) S. F. SISKRON,
Judge Parish St. James.

364 As within prayed for, it is ordered that Célestine Cuny be authorized to institute her action for separation of property from her husband, Casimir Carite.

At chambers, parish of St. James, this 13th of February, 1873.

(Signed) S. F. SISKRON,
Judge Parish Court St. James.

State of Louisiana, parish court, parish St. James.

CÉLESTINE CUNY, UX.,
vs.
CASIMIR CARITE. } No 125.

The State and court aforesaid to Mr. Casimir Carite, residing in the parish of St. James:

You are hereby cited to comply with the prayer of the petition, whereof a true copy is hereunto annexed, or file your answer hereto

within ten days from service hereof in this court, at the court-house in this parish.

Given under my hand, officially, at the parish of St. James, this 13th day of February, 1873.

(Signed) JOHN B. ORY,
D'y Clerk.

Received February 14th, 1873. On Febr'y 15th, 1873, I served
365 a copy of citation and petition annexed on Casimir Carite in person.

Parish of St. James, February 15th, 1873.

(Signed) JOSEPH D. HAGIN,
Deputy Sheriff.

On Thursday, March 13th, 1873, court met pursuant to adjournment. Present, S. F. Siskron, judge.

CÉLESTINE CUNY
vs.
CASIMIR CARITE, HER HUSBAND. } 125.

By consent, case fixed instanter and answer filed.

To the honorable judge of the parish court in and for the parish of St. James:

Now comes defendant in the suit of Célestine Cuny vs. Casimir Carite and denies all and singular the allegations in plaintiff's petition, as set forth in her petition.

Defendant prays, after due proceedings, that plaintiff's petition be rejected, with costs, and defendant prays for all general and equitable relief.

(Signed) J. R. WINCHESTER,
Of Counsel.

Filed in evidence 13th March, 1873.

JEAN BAPTISTE CLÉMENT
vs.
CASIMIR CARITE. } No. 6916.

366 United States circuit court, fifth circuit and district of Louisiana.

By virtue of a writ of seizure and sale to me directed by the honorable the circuit court of the United States, fifth judicial circuit, district of Louisiana, I will proceed to sell, at the court-house, in the parish of St. James, on Saturday, April 5, 1873, at 11 o'clock a. m., the following-described property, to wit:

A certain tract of land, or plantation, established as a sugar estate, situated in the parish of St. James, in this State, on the left bank of the river Mississippi, about sixty miles above the city of New Orleans, consisting:

First. Of twelve and two-thirds arpents, more or less, front on the river, on a depth of eighty arpents, bounded heretofore above by the property of Dr. J. P. Bingay, and below by that of Messrs. Bruce, Seddon, and Wilkins, and now bounded above by the property of Dr. Wood, or assigns, and below by that of Mr. Morson, or assigns,

and below by that of Mr. Morson, or assigns, together with the sugar-house, engines, and other buildings and improvements thereon,
367 and thereunto belonging, without any exception or reservation, as well as all the mules, carts, plows, agricultural implements, and all immovables by destination, attached to the said plantation, for the cultivation, working, or improving the same, without any exception whatever.

Second. Four hundred and sixty-four shares of one hundred dollars each in the capital stock of the Citizens' Bank of Louisiana, being the remnant of four hundred and ninety-seven shares, from which thirty-three shares have been set apart by said bank, constituted cash stock in conformity with an act of the legislature of this State entitled "An act to authorize the Citizens' Bank of Louisiana to convert shares secured by mortgage into cash shares," approved on the 25th day of April, 1853.

Third. The west half of section numbered forty-six, in township numbered eleven, east of the Mississippi River, range four east, in the district of lands subject to sale in the city of New Orleans, containing three hundred and seventeen fifty one-hundred acres.

Fourth. A tract of land adjoining a part of the rear of the
368 plantation above described, being the section numbered forty-five, in township numbered eleven, range number four east, in the district southeast, on the east bank of the river Mississippi, containing six hundred and forty-five fifty one-hundred acres, seized in the above suit.

Terms, cash on the day of sale.

The purchaser to assume a mortgage in favor of the Citizens' Bank of Louisiana for the sum of $5,573, due the 1st June, 1873, and renewable according to the charter of said bank, and to furnish a stock-note for said amount, renewable as aforesaid, identified with the act of sale to be made herein and with the original mortgage in favor of bank, to assume a note secured by vendor's privilege and special mortgage on the property above described for nine thousand five hundred and fifty-nine dollars, with interest from the first day of September, 1869, until paid, falling due on the first day of September, 1873.

369 A plan of the property, according to law, will be exhibited on day of sale.

(Signed) S. B. PACKARD.
United States Marshal.

Circuit court of the United States, fifth circuit, district of Louisiana.

JEAN BAPTISTE CLÉMENT
vs.
CASIMIR CARITE. } No. 6916.

To CASIMIR CARITE:

Take notice that payment is demanded of you, within three days from the service hereof, of the amount specified in the writ of seizure and sale granted on the accompanying bill of complaint, with interest and costs; and in default of payment within that delay the property referred to in said bill of complaint will be seized and sold according to law.

A further delay of one day for every twenty miles, distance from

your domicile to this city, at which place this court is held, is allowed you by law.

Clerk's office, New Orleans, February 10th, 1873.

(Signed) F. B. VINOT,
Dy Clerk.

370 Circuit court of the United States for the district of Louisiana, in the fifth circuit. In chancery.

JEAN BAPTISTE CLÉMENT
vs.
CASIMIR CARITE. } No.

To the judges of the circuit court of the United States for the district of Louisiana, in the fifth circuit:

Jean Baptiste Clément, a citizen and resident of the republic of France, brings this his bill against Casimir Carite, a citizen of the State of Louisiana, residing in the parish of St. James, in said State; and thereupon your orator complains and says:

That the aforesaid Casimir Carite is justly, truly, and legally indebted unto your orator in the following sums, with vendor's privilege and special mortgage, as hereinafter enumerated and described.

1°. Nine thousand five hundred and fifty-nine dollars, with 8 per centum per annum interest thereon from the 15th day of January, 1873, until paid.

371 2°. Nine thousand five hundred and fifty-nine dollars ($9,559), with 8 per centum per annum thereon from the first day of September, 1869, until paid.

Now, in order to establish fully the said indebtedness in capital and in interest, and to minister authentic evidence of the same, your orator shows:

That on the 18th day of September, 1869, by act before C. V. Foulon, a notary public, duly qualified and commissioned, Claude Louis Copponex, Jean Bernard Moulor, dit Jean Louis Moulor, and Casimir Carite formed a copartnership for the purpose, under the name and style of Copponex & Company, of purchasing and carrying on a sugar plantation, as the whole will more fully appear by a copy of said act annexed and forming part of this bill, marked A.

Your orator further respectfully showeth:

That on the 22d day of September, 1869, by act before C. V. Foulon, notary, he sold to the partnership which had been thus formed, under the name and style of Copponex & Co., the following-described property, viz:

372 A certain tract of land or plantation established as a sugar estate, situated in the parish of St. James, in this State, on the left bank of the river Mississippi, at about sixty-six miles above the city of New Orleans, consisting, 1st, of twelve arpents and two-thirds, more or less, front on the river on a depth of eighty arpents, bounded heretofore above by the property of Doctor J. P. Bingay, and below by that of Messrs. Bruce, Seddon, and Wilkins, and now bounded above by the property of Mr. Wood or assigns, and below by that of Mr. Morson or assigns, together with the sugar-house, engine, and other buildings and improvements thereunto belonging, without any exception or reservation.

2°. Four hundred and sixty-four (464) shares, of one hundred dollars each, in the capital stock of the Citizens' Bank of Louisiana, being the remnant of four hundred and ninety-seven shares, from which thirty-

three shares have been set apart by said bank to constitute its
373 cash stock, in conformity with an act of the legislature of this State entitled "An act to authorize the Citizens' Bank of Louisiana to convert shares secured by mortgage into cash shares," approved on the 25th day of April, 1853.

2°. The west half of section No. forty-six, in township No. eleven (east of the Mississippi River), range four east, in the district of lands subject to sale in the city of New Orleans, containing three hundred and seventeen $\frac{51}{100}$ acres.

3°. A tract of land adjoining a part of the rear of the plantation above described, being the section No. forty-five, in the township No. eleven, range No. four east, in the district southeast, on the east bank of the river Mississippi, containing six hundred and forty-five $\frac{50}{100}$ acres.

Your orator further shows that the foregoing sale was made for the price of fifty-five thousand ($55,000.00) dollars; ten thousand dollars whereof were paid cash, and six thousand seven hundred and sixty-four ($6,764.00) dollars were assumed, being the then amount of a mortgage or stock loan due the Citizens' Bank of Louisiana,
374 and for the remainder of said price, viz, thirty-eight thousand two hundred and thirty-six ($38,236.00) dollars, the said partnership of Copponex & Co. furnished to your orator four several promissory notes, drawn by said partnership to its own order, and by it endorsed in blank, dated New Orleans, September 22d, 1869, bearing interest at the rate of eight per cent. per annum from the first day of September, 1869, until final payment, and payable respectively on the 1st day of September, 1870, 1871, 1872, and 1873, each of said four notes being for the sum of nine thousand five hundred and forty-nine dollars ($9,559.00), and payable in the Bank of America, in this city, which four notes were paraphed "ne varietur," to identify them with said act.

Now, your orator further, with respect, shows that in order to secure the payment of said notes in capital, interest, and costs, along with five per centum attorney's fees on the amount to be sued for, the said Copponex & Co. did specially mortgage the real estate herein-
375 above described, the said mortgage importing confession of judgment, and containing the clause de non alienando, as the whole will more fully and authentically appear by copy of said act certificate of registry thereof, annexed to this bill as part and marked B.

Your orator further shows that he is the holder and owner, 1st, of one of the notes drawn by Copponex & Co., as aforesaid, dated New Orleans, September 22d, 1869, for the sum of nine thousand five hundred and fifty-nine dollars, payable on the 1st day of September, 1871, and bearing eight per centum per annum from the 1st day of September, 1869, until paid. That all interest on said note having been paid up to the 15th day of January, 1873, as will appear by said note, and par'aph thereon, annexed to this bill and marked "C," the same being part hereof. 2nd. One of said notes of like date and tenor as the foregoing, for a like amount, due September 1st, 1873, with like interest, upon which interest is due from the 1st of September, 1869, as will
376 more fully and authentically appear by said note, with par'aph thereon annexed to this bill as part and marked "D." 3rd. One of said notes in all respects similar to the foregoing except that it falls due on the 1st of September, 1869, and upon which interest is due from the 1st of September, 1869, until paid, as will more fully appear by said note annexed as part hereof and marked "E."

Your orator further shows that by act before L. Dugas, recorder in and for the parish of St. James, on the 11th of January, 1871, Claude Louis Copponex, one of the original partners of the firm of Copponex & Co., sold his undivided one-third interest in the property above described to Jean Bernard Moulor, dit Jean Louis Moulor, and Casimir Carite, who assumed the payment of the Citizens' Bank mortgage, and mortgage securing the payment of the notes hereinabove more fully described, as the whole will more fully appear by a copy of said act annexed as part of this bill and marked "F."

377 Your orator further shows that the property thus acquired became the property of a partnership under the name of Moulor & Carite, and composed of Jean Bernard Moulor, dit Jean Louis Moulor, and Casimir Carite, as will appear by an act passed before C. V. Foulon, notary, on the 11th day of February, 1871, a copy of which is annexed to this bill as part and which is marked "G."

That on the 30th day of December, 1872, by act before C. V. Foulon, notary public, the said partnership of Moulor and Carite was dissolved, and Casimir Carite became the owner of the whole of said property, he assuming the original Citizens' Bank mortgage, and the notes and mortgage in the original sale to Copponex & Co., more particularly described, as the whole will more fully appear by a copy of said act annexed to this bill as part and marked "H."

Your orator avers amicable demand and neglect to pay on the part of defendant, all of which neglect to pay and refusal is contrary to equity and good conscience, and tends to the manifest injury and

378 wrong of your orator. In consideration whereof, and for as much as your orator can only have adequate relief in the premises in this honorable court, where matters of this nature are properly cognizable and alienable, your orator prays:

That executory process herein issue as the law directs; that the marshal be directed to seize, advertise, and sell for cash according to law the property hereinabove and in the acts hereto annexed more fully described, and from the proceeds thereof he pay your orator, with vendor's privilege as granted by law, and special mortgage is accorded by the acts annexed hereto as part: 1°. Nine thousand five hundred and fifty-nine dollars, with eight per centum per annum thereon from the 15th day of January, 1873, until paid. 2°. Nine thousand five hundred and fifty-nine dollars, with eight per centum per annum from the 1st day of September, 1869, until paid; five per centum attorney's fees on the amount sued for and costs, the whole with the vendor's privilege accorded by law and the mortgage granted by the act hereinbe-

379 fore annexed and according to law. The purchaser to assume the Citizens' Bank mortgage hereinabove described, and the note for nine thousand five hundred and fifty-nine dollars, with 8 per centum per annum thereon from September 1st, 1869, until paid, with the mortgage securing the same and falling due on the 1st September, 1873. The whole according to law and for general relief; and as in duty bound your orator will ever pray.

(Signed) EDWARD D. WHITE,
Solicitor for Complainant.

CLERK'S OFFICE.

A true copy of the original on file.
New Orleans, February 10th, 1873.
(Signed) F. B. VINOT,
Dy Clerk.

To the honorable the judges of the United States circuit court for the district of Louisiana:

The petition of James G. Neal and James McIntyre, citizens of the State of Kentucky and of the U. S., respectfully shows that Casimir Carite, a citizen of the State of Louisiana, is justly and truly indebted unto them in the full sum of twenty-one hundred and fifty $\frac{00}{100}$
380 dollars, and 5 % interest per annum from 1st January, 1873, until paid, for this, to wit:

Pet'rs are holders and owners of a certain promissory note for $2,150.00, made by Moulor and Carite in solido, dated at parish of St. James, on 17th of October, 1872, and payable to the order of your petitioners; all of which will appear by reference to the said note hereto annexed and made part of this petition.

Petitioners aver that the said note was given for the purchase-price of ten mules sold by pet'rs to the said Carite, and that said price is now due, owing, and unpaid. Petitioners aver that they have a lien and privilege upon the mules sold for the price aforesaid and the amount of said note, viz, $2,150.00, which is due, and that they fear that the said Carite will part with or dispose of the said mules in his possession during the pendency of this suit, and that a writ of sequestration is necessary herein.

Petitioners aver that the said Carite refuses to pay the amount for which he is indebted as aforesaid.

Wherefore, the premises being duly considered, petitioners pray
381 that the said Casimer Carite be cited to appear and answer this petition; that a writ of sequestration issue commanding the marshal to seize and take possession of the said mules in the parish of St. James, on the plantation of Moulor-Carite (ten in number), and hold the same until the further orders of this hon. court; and that, after due proceedings, your petitioners do have and recover judgment for the full sum of twenty-one hundred and fifty dollars, and 5 % interest as aforesaid, against the said Carite, with lien and privilege upon said mules for the full sum of twenty-one hundred and fifty dollars, and 5 % interest as aforesaid, for all costs, for the fullest relief in law and equity.

(Signed) GIBSON & AUSTIN,
Att'ys for Pet'rs.

JAMES G. NEAL being duly sworn, deposes and says that he is a member of the firm of Neal and McIntyre; that the allegations of their foregoing petition are true and correct, and that the causes for which they claim the sequestration are that they sold the said mules to
382 Carite and have a lien and privilege upon them for the price aforesaid, viz, $2,150.00, which is now due, owing, and unpaid; and that deponent fears that the said Carite will part with or dispose of the said mules in his possession during the pendency of this suit, and that a writ of sequestration is necessary to preserve deponent's right.

(Signed) JAMES G. NEAL.

Sworn to and subscribed before me this 10th February, 1873.

(Signed) F. B. VINOT,
Dy Clerk.

Order.

Let a writ of sequestration issue as prayed for, upon plaintiffs giving bond in the sum of twenty-five hundred dollars, with good and solvent security, and conditioned as the law directs.

New Orleans, February 10th, 1873.

(Signed) E. H. DURELL, *Judge.*

CLERK'S OFFICE.

A true copy of the original on file.
New Orleans, February 10, 1873.

(Signed) F. B. VINOT,
Dy Clerk.

383 The President of the United States of America to the marshal of the district of Louisiana, greeting:

NEAL & MCINTYRE
vs.
C. CARITE. } No. 6914.

You are hereby commanded to summon Casimir Carite, a citizen of the State of Louisiana, to comply with the demand of James McIntyre and James G. Neal, citizens of the State of Kentucky, contained in the petition of which a copy accompanies this citation, or to deliver his answer to the same in the office of the clerk of the circuit court of the United States, fifth judicial circuit and district of Louisiana, in the city of New Orleans, in ten days after service hereof, or judgment will be rendered against him by default, which delay is increased one day for every ten miles the defendant's residence is distant from New Orleans, the place where the court is held. And that you make due return hereof on the first Monday of March, 1871.

384 Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States of America, at the city of New Orleans, this 10th day of February, A. D. one thousand eight hundred and seventy-three, and of the Independence of the United States of America the 97th year.

(Signed) F. B. VINOT,
Dy Clerk.

No. 6914.] NEW ORLEANS, *Feb.* 10, 1873.

In the United States district court for the district of Louisiana.

UNITED STATES MARSHAL'S OFFICE,
District of Louisiana.:

NEAL & MCINTYRE
vs.
C. CARITE.

To C. CARITE, Esq.:

By virtue of a writ of sequestration in the above-entitled suit take notice that I have seized, and in three days from the service hereof shall proceed to advertise and sell according to law, the following-described property, viz: Ten mules.

(Signed) J. B. STOCKTON,
Dy U. S. Marshal.

CÉLESTINE CUNY
vs.
CASIMIR CARITE, HER HUSBAND.

385 The within case came up for trial this day according to previous assignment of counsel, and considering the law and the evidence as being in favor of plaintiff and against the defendant—

It is therefore ordered, adjudged, and decreed that plaintiff, Célestine Cuny, wife of Casimir Carite, do have and recover judgment against her said husband, separating her in property *for* him, dissolving the community of acquets and gains heretofore existing between her and her said husband, and condemning the said Casimir Carite to pay the costs of this suit.

Rendered, read, and signed in open court, at the parish of St. James, this thirteenth day of March, 1873.

(Signed) S. F. SISKRON,
Judge Parish Court St. James.

Clerk's certificate.

I, the undersigned, Henry Cohen, clerk of the fourth judicial district court of the State of Louisiana, in and for the parish of St. James, and ex-officio clerk of the parish court in the aforesaid parish, do
386 hereby certify that the aforesaid seventeen pages contain a full and complete transcript of all the proceedings had, documents filed, and evidence adduced in the suit wherein Célestine Cuny is plaintiff and Casimir Carite, her husband, is defendant, and numbered 125 on the docket of the aforesaid parish court.

In testimony whereof I have hereunto set my hand and the seal of office, at the parish of St. James, this 3d day of January, A. D. 1877.

[SEAL.] (Signed) H. COHEN, *Clerk.*

I, Samuel F. Siskron, judge of the parish court for the parish of St. James, do hereby certify that Henry Cohen, whose signature is affixed to the above document, is, and was at the time of signing same, clerk of our said court, and that the signature affixed is in the true handwriting of him, the said clerk.

St. James, January 12th, A. D. 1877.

(Signed) S. F. SISKRON,
Parish Judge.

387 *Hearing and submission.—Extract from minutes of 3d April*, 1879.

MRS. FÉLICITÉ TROTOT
vs.
MRS. CÉLESTINE CARITE ET ALS. No. 8162.

This cause came on to be heard on the bill, answers, replications, exhibits, and proofs, and having been argued by counsel on both sides, the court took time to consider, 10 days being allowed to furnish briefs.

Decree.—Entered and filed May 12th, 1879.

United States circuit court, district of Louisiana.

FÉLICITÉ TROTOT
vs.
CÉLESTINE CARITE ET ALS. No. 8162. In chancery.

This cause came on to be heard on the bill, answers, replications, ex-

hibits, and proofs, and was argued by counsel. The court, upon consideration, declares that the plaintiff has established a valid and subsisting mortgage upon the following-described property, viz:

388 1st. A certain tract of land or plantation, established as a sugar estate, situated in the parish of St. James, State of Louisiana, on the left bank of the river Mississippi, at about sixty-six miles above the city of New Orleans, consisting, 1st, of twelve arpents and two-thirds, more or less, front to the river, on a depth of eighty arpents, bounded heretofore above by the property of Doctor J. P. Bingay, and below by that of Messrs. Bruce, Seddon, and Wilkins, and now bounded above by the property of Mr. Wood or assigns, and below by that of Mr. Morson or assigns, together with the sugar-house, engine, and also other buildings and improvements thereunto belonging, without any exception or reservation, and, moreover, all the horses, mules, horned cattle, and agricultural implements attached to said plantation; and, 2d, four hundred and forty-four shares of one hundred dollars each in the capital stock of the Citizens' Bank of Louisiana, being the remnant of four hundred and ninety-seven shares, from which thirty-three shares have been set apart by said bank to constitute its cash

389 stock, in conformity with an act of the legislature of the State of Louisiana entitled "An act to authorize the Citizens' Bank of Louisiana to convert shares secured by mortgage into cash shares," approved 25th April, 1853.

2d. The west half of section No. forty-six, in township No. eleven (east of the Mississippi River), range four east, in the district , of lands subject to sale in the city of New Orleans, containing three hundred and seventeen and fifty-one hundredths acres ($317\frac{51}{100}$ acres).

3d. A tract of land adjoining a part of the rear of the plantation above described, being the section forty-five, in the township No. eleven, range No. four east, in the district southeast (on the east bank of the Mississippi River), containing six hundred and forty-five and fifty-four one-hundredths ($645\frac{54}{100}$) acres, for the sum of twenty-five thousand dollars, with interest at the rate of eight per centum per annum from the 30th December, 1872, as per public act before C. V. Foulon, notary public of Orleans, dated New Orleans, 30th December, 1872, a copy of which is on file in the record, and said mortgage takes rank from

390 the 31st day of December, 1872, the date of its record in the mortgage office of the parish of St. James, State of Louisiana.

2°. The court declares that this aforesaid mortgage is not defeated by the claims of the defendant, Mrs. Célestine Carite, under the judgment of separation of property between her and her husband, Casimir Carite, rendered by the parish court of St. James parish, State of Louisiana, on 13th March, 1873; and the court decrees that said judgment of separation is null and void, for want of publication.

3°. The court declares and decrees that the sale of the above-described property of the 5th April, 1873, by the United States marshal to A. C. Tremoulet, acting as agent for J. B. Clément, as appears by the exhibit marked O, on file in the record, and the sale of the above-described property of the 22d May, 1873, by said A. C. Tremoulet, agent of J. B. Clément, to Mrs. Célestine Cuny, by act before Soniat, notary, as appears by the exhibit marked R, be set aside and annulled as simulated and illegal, and said above-described property recog-

391 nized as belonging to the community formerly subsisting between Casimir Carite and Célestine Cuny, his wife, as it did before said simulated sales were made.

4°. The court orders and decrees that the defendants herein, or either

of them, do pay the sum of twenty-five thousand dollars, with interest at the rate of eight per centum per annum from the 30th December, 1872, as aforesaid, the amount of the mortgage of the plaintiff, into the hands of the clerk of this court within sixty days from the date of this decree, together with all of the costs of this court, or that the above-described property be sold by and under the direction of M. M., Cohen, esq., as special master, who is hereby appointed for that purpose, who shall sell the same at public auction to the highest bidder before the door of the custom-house, on Canal street, in New Orleans, between the hours of twelve o'clock noon and three o'clock p. m. of some day to be designated by the master, after an advertisement of thirty days in some paper published in the city of New Orleans, for cash,
392 which he shall deposit in the registry of this court, subject to the orders of this court, and the said master shall make a deed to the purchaser and report all of his proceedings to this court within ten days from the day of sale for confirmation.

4°. The court reserves in all of their integrity the rights and equities of all parties who have claims on the property who have not been made defendants to this suit by the service of subpœna.

5°. It is further ordered that prior to said sale the said master shall notify the parties plaintiff and defendant to appoint each an appraiser, who shall be sworn by said master to appraise the property to be sold, and who shall appraise the same before the sale, and in case of their disagreement the said master shall appoint a third appraiser, whose appraisement shall be final; and in case either party shall fail to appoint an appraiser the said master shall appoint an appraiser on behalf of such party so failing to appoint. And when said sale
393 shall take place, if said property shall not bring two-thirds of the appraisement thereof, the said master shall make no adjudication thereof, but shall at once report the fact to this court for its further order.

12th May, 1879.

(Signed) EDWARD C. BILLINGS, *Judge*.

Motion for appeal and order.—Extract from minutes of 17th May, 1879.

April term, 1879.

NEW ORLEANS, *Saturday, April 17th*, 1879.

Court met pursuant to adjournment. Present, Hon. E. C. Billings, district judge.

MADAME FÉLICITÉ TROTOT *vs.* MADAME CÉLESTINE CARITE ET ALS. } No. 8162.

On motion of Thomas J. Semmes, solicitor for the defendants, Madame Célestine Carite, in her individual capacity and as tutrix of the minors named in the complainant's bill of complaint, and for J. M. Brunet, under-tutor of said minors Carite, and for Antoine Tremoulet and Jean B. Clément—

394 It is ordered that said defendants be allowed an appeal with supersedeas to the Supreme Court of the United States from the final decree rendered in this cause on the 12th day of May, in the year 1879; and that said appeal be returnable into said Supreme Court at the next term thereof, to be held in Washington City on the second

Monday of October, in the year 1879, and that the bond this day filed for $2,000, with A. Villermin as surety, be approved, to operate as a supersedeas to said decree.

Bond of appeal.—Filed May 17th, 1879.

UNITED STATES OF AMERICA:

Know all men by these presents that we, Célestine Carite, widow of Casimir Carite, individually and as tutrix of her minor children, C. L. Carite, J. J. D. Carite, J. R. Carite, J. M. Carite, & M. C. Carite, and Jean M. Brunet, under-tutor of said minors Carite, and Jean B. Clément, Antoine Tremoulet as, principals, and A. Villermin, as surety, are
395 held and firmly bound, jointly and severally, unto Madame Félicie Trotot in the sum of two thousand dollars, lawful money of the United States of America, to be paid to the said Madame Félicie Trotot, her heirs, executors, administrators, and assigns, for which payment well and truly to be made we bind ourselves, and each of us by himself, and each of our heirs, executors, and administrators, firmly by these presents. Sealed with our seals and dated the 17th day of May, in the year of our Lord eighteen hundred and seventy-nine.

Whereas the said Célestine Carite and other principals aforesaid having heretofore, to wit, on the 17th day of May, 1879, taken an appeal to the Supreme Court of the United States from and to reverse the decree rendered on the 12th day of May, 1879, by the circuit court of the United States for the fifth circuit, holding sessions in and for the district of Louisiana, in the suit of Madame Félicie Trotot vs. Madame Célestine Carite and others, No. 8162 of the docket thereof:

Now, the condition of the above obligation is that if the above-bounden Célestine Carite and others, aforesaid principals, shall prosecute their said appeal to effect, and shall answer all damages
396 and costs if they shall fail to make good their plea, then this obligation shall be void; otherwise to remain in full force and virtue.

(Signed) JEAN M. BRUNET, [SEAL.]
By his att'y, THOS. J. SEMMES.
(Signed) CÉLESTINE CARITE, [SEAL.]
Individually & as Tutrix.
(Signed) A. VILLERMIN, [SEAS.]
(Signed) J. B. CLÉMENT,
By his att'y, THOS. J. SEMMES.
(Signed) ANTOINE TREMOULET.
By his att'y, THOS. J. SEMMES.

Signed, sealed, and delivered in the presence of—
(Signed) THOS. J. SEMMES.

Bond approved:
(Signed) EDWARD C. BILLINGS, *Judge.*

MAY 17th, 1879.

397 UNITED STATES OF AMERICA:

Circuit court of the United States, fifth circuit and district of Louisiana.

CLERK'S OFFICE.

I, Francis A. Woolfley, clerk of the circuit court of the United States for the fifth circuit and district of Louisiana, do hereby certify

that the foregoing 396 pages contain and form a full, complete, true, and perfect transcript of the record and proceedings had, together with all the evidence adduced, on the trial of the case of Madame Félicité Trotot vs. Madame Célestine Carite and others, No. 8162 of the docket, so far as the same now remain of record or on file in said court.

Witness my hand and the seal of said court, at the city of New Orleans, this 13th day of August, A. D. 1879.

[SEAL.] F. A. WOOLFLEY, *Clerk.*

I, Edward C. Billings, United States judge for the district of Louisiana, do certify that Francis A. Woolfley, whose name is signed to the above certificate as clerk of the circuit court of the United States for the fifth circuit and district of Louisiana, was, at the time of signing said certificate, and is now, the clerk of said court; that said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

Given under my hand, at the city of New Orleans, in said district, this 13th day of August, A. D. 1879.

EDWARD C. BILLINGS, *Judge.*

398 THE UNITED STATES OF AMERICA:

Circuit court of the United States, district of Louisiana.

The President of the United States to Madame Widow Félicité Trotot, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at the city of Washington on the second Monday of October next, pursuant to a motion and order for appeal entered & filed in the clerk's office of the circuit court of the United States for the fifth circuit and district of Louisiana, wherein Mrs. Célestine Cuny, widow of Casimir Carite, in her individual capacity and in her capacity of natural tutrix of the minor children and heirs of said Casimir Carite, issue of her marriage with said Carite, viz, Casimir Louis Carite, Jean Jules Denis Carite, Jean Raymond Carite, Jean Marie Carite, and Marie Célestine Carite, Jean M. Brunet, under-tutor of said minors Carite, Antoine Tremoulet, and Jean B. Clément are defendants and appellants, and you are complainant and appellee, to show cause, if any there be, why the decree rendered against the said defendants, appellants as in said motion for appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this 19th day of May, in the year of our Lord one thousand eight hundred and seventy-nine.

EDWARD C. BILLINGS, *Judge.*

399 (Indorsed:) United States circuit court. No. 8162. Widow Félicité Trotot vs. Célestine Carite et al. Citation.

Marshal's return.

Received May 19, 1879, by the U. S. marshal, and on May 20th, 1879, I served a true copy of the within motion and order for appeal on Widow Félicité Trotot, claimant and appellee, by handing the same to Joseph P. Hornor, esq., her attorn'y, who accepted service of the same

for the said Widow Félicité Trotot, in city of New Orleans, district of Louisiana, the said Widow Félicité Trotot being absent from district of Louisiana.

E. S. CURRY,
Dy U. S. Marshal, District of Louisiana.

On the 27th day of May, 1879, personally appeared before me, E. S. Curry, a deputy United States marshal for the district of Louisiana, and makes oath that he served a copy of the within motion and order for appeal on Widow Félicité Trotot, claimant and appellee, as stated in his official return hereon.

E. S. CURRY,
Dy U. S. Marshal, District of Louisiana.

Sworn to and subscribed before me this 27th day of May, 1879.

F. B. VINOT,
U. S. Comm'r.

(Indorsement on cover:) No. 276. Madame Célestine Carite et al., appellants, vs. Madame Félicité Trotot. Louisiana C. C. U. S. Filed 30th September, 1879.

OFFICE SUPREME COURT U. S.
FILED
JAN 13 1882

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1881.

No. 276.

MADAME CELESTINE CARITE AND OTHERS

versus

MADAME FÉLICITE TROTOT.

THOS. J. SEMMES,
Of Counsel for Appellants.

A. W. Hyatt, Print, 73 Camp St. N. O.—21,379

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1881.

No. 276.

MADAME CELESTINE CARITE AND OTHERS

versus

MADAME FÉLICITE TROTOT.

This is a suit by a third mortgagee to set aside a judicial sale of the mortgaged property, made by the United States Marshal in April, 1873, under proceedings instituted by the second mortgagee, in February of that year. It is also a suit to declare null and void a judgment of separation of property obtained by Mrs. Carite against her husband, in March, 1873, and, as a consequence of such nullity, to subject property purchased by the wife, after such judgment of separation, to the payment of the debts of the husband, as community property.

It is perceived, therefore, that the object of the suit is twofold:

1st. To annul the judicial sale made in April, 1873, because it was made by combination and conspiracy between the second mortgagee and the debtor and his wife, to defeat the claim of the third mortgagee.

2d. To annul the judgment of separation of property between the husband and the wife in order to impress on property subsequently acquired by the wife, the character of community property, and as such, to subject it to the payment of the husband's debts.

The facts are as follows: Casimir Carite, the husband of the defendant, Celestine Carite, on the 18th of September, 1869, formed a partnership for the purpose of purchasing and culti-

vating a sugar plantation in the parish of St. James; his co-partners were J. B. Moulor and C. L. Copponex; each partner was entitled to one-third interest in the property and the profits of the partnership.

On the 22d of September, 1869, the partnership purchased from J. B. Clément, who is one of the defendants, and a citizen of France, residing in Paris, the sugar plantation in question, located in the parish of St. James. In making this sale, Clément was represented by his agent, A. C. Trémoulet, residing in New Orleans.

The price of the plantation was $55,000; the firm paid $10,000 in cash to Clément, assumed a mortgage for $6764, held by the Citizens' Bank, and settled for the remainder, $38,236, by giving four notes, each for the sum of $9559, payable with 8 per cent. interest from the 1st of September, 1869, respectively on the 1st of September, 1870, 1871, 1872 and 1873.

On the 11th of January, 1871, Copponex sold out his interest in the plantation to his co-partners, Moulor and Carite; and on the 30th of December, 1872, Carite became sole owner of the plantation by purchase from Moulor of his half interest.

The price which Carite agreed to pay Moulor for his one-half interest in the plantation was $55,000 in excess of the mortgages on it. No cash was paid, but Carite assumed the Citizens' Bank mortgage which had been reduced to $5573, and the three unpaid mortgage notes held by Clément, each for the sum of $9559; two of these notes had become due, and the term of payment had been extended to January and February, 1873; the third note matured 1st September, 1873. The $55,000 in excess of the mortgages was settled for by notes of Carite in favor of Moulor, payable in one, two, three, four and five years after date, to wit: $15,000 in one year, $10,000 in two years, $10,000 in three years, $10,000 in four years and $10,000 in five years. pp. 37–8.

This most extraordinary transaction has not been explained, for Moulor committed suicide shortly afterwards; Copponex is dead, and Carite died prior to the institution of this suit. It is

not pretended that the plantation was really worth any such sum of money; for in 1867, when prices were high, Clément had paid for it about $44,000 (see recitals at p. 18).

The suspicious and most novel recital in the act of sale from Moulor to Carite "that since the purchase of said plantation "constructions and improvements of great value have been made "thereon," lead to the conclusion, that these notes for $55,000 were issued in consequence of some private understanding between Moulor and Carite, to enable the former to kite them in the money market; that they were in whole or in part accommodation notes, as between Moulor and Carite.

It is impossible to suppose that Carite could have imagined the plantation was worth $110,000 over and above the mortgages on it, which amounted to $35,000 or more.

This suspicion that these Moulor notes were accommodation notes is strengthened by the fact, that pending the negotiations hereinafter referred to, Carite represented to Judge White and Mr. Trémoulet, that he could extricate himself from his difficulties if allowed an extension of time, pp. 97–98, and he never mentioned these Moulor notes among his liabilities, for Trémoulet says, Carite never spoke about the Moulor notes, and he, Trémoulet, was not aware of their existence, p. 111.

This sale to Carite by Moulor is dated 30th December, 1872, and on the 7th of February, 1873, Trémoulet writes to his principal in Paris that, "Carite finding himself very much embarrassed "covered by debts *through his partner, Moulor*, has been compelled "to renounce the renewal of the notes due," p. 119. Yet the sale from Moulor to Carite, on the 30th of December, 1872, purports to be a settlement of this partnership.

This shows relations between the parties, which cast suspicion on the reality of the price stipulated to be paid by Carite to Moulor.

These circumstances, it seems to me, raise a well founded doubt as to the consideration paid by complainant for the notes in question, for her demand is based on five of these Moulor

notes, for $5000 each; three payable one year after date, and two payable two years after date. What has become of the remaining notes, amounting to $30,000, does not appear. No other creditor has intervened in this suit to assert his rights.

The complainant does not allege that she paid value for the notes sued on; she contents herself with an allegation that she is owner and holder of the notes. All the parties to the transaction being dead in 1877, when this suit was commenced, the unfortunate widow of Carite and his minor children were unable to ferret out the truth.

The complainant allowed the defendant, Mrs. Carite, to remain in possession, and at great risk and expense to cultivate the same until the debt due to Clément, the original vendor, was reduced to $8500, and that due to the Citizens' Bank was reduced to $3985, and then commenced this suit.

The reason for this delay was, that the price paid by Mrs. Carite for the plantation in May, 1873, when she purchased the same from Clément, was its full value, and hence nothing could be gained until the debts on it were nearly paid. There is no allegation in the bill of complaint, that the sale of the plantation made by the marshal on the 5th of April, 1873, was unfairly conducted, or that the price at which Clément, the mortgagee, bid it in, was not a fair price, or that bidders were in any manner deterred from attending the sale, or that the price at which Clément, on the 22d of May, 1873, sold to Mrs. Carite, was less than its value.

The evidence shows that there was no bid at the sale, but that of the mortgagee, Clément; that he bid $24,385 70, two-thirds of the appraised value, and that he sold it afterwards to Mrs. Carite for the amount of his mortgage debt and all the expenses attending the sale including lawyer's fees, which, together with the prior mortgage in favor of the Citizens' Bank, assumed by Mrs. Carite, amounted to $44,461 14. (See letters of Tremoulet to Clément, pp. 120-121).

The circumstances under which Clément, the mortgagee,

seized and sold the plantation, are these: Moulor died insolvent, Carite was in the same condition. Neal and McIntyre, creditors of Moulor and Carite, for the sum of $2150, the price of ten mules sold on the 17th of October, 1872, instituted proceedings in the United States Circuit Court to sequester the mules; these proceedings were commenced on the 10th of February, 1873, p. 129. On the same day Judge White, the attorney for Clément, the mortgagee, filed his petition to foreclose the mortgage on the plantation, and asked for an order of seizure and sale, which was granted pp. 126-7-8.

By superior diligence the deputy marshal having in charge the order to seize the plantation for the mortgagee, anticipated the other creditors and made the first seizure. Under the laws of Louisiana, mules attached to a plantation by the owner, for the purpose of cultivation, become immovable by destination; and hence, the object of the mortgagee in making the first seizure, was to prevent the removal and separate sale of the mules.

Prior to this seizure, which was made on the 13th of February, 1873 (see Marshal's return, p. 61), and shortly after the death of Moulor, a consultation was had between Trémoulet, the agent of the Mortgagee and his attorney White, as to the propriety of foreclosing the mortgage, in consequence of the embarrassed condition of Carite. Notice was given to Carite of the impending danger. He begged for indulgence, representing that a seizure would ruin him, and that he could arrange with his creditors if Trémoulet would give him time.

Mr. Trémoulet told Carite that he could not give an extension of time, because the plantation was so much involved with the debts of Moulor, of Copponex and of Carite, that it would likely be seized, and, in consequence, subjected to waste.

The result however was a promise by Trémoulet to abstain from seizing under his mortgage, provided no seizure were made by other parties. The Neil and McIntyre suit precipitated the seizure made under the foreclosure proceedings, filed on the 10th of February, 1873, p. 97.

On the 7th of February, 1873, Mr. Trémoulet writes to Clément, in Paris, as follows :—

"This gentleman, at present the sole proprietor of the "plantation, finding himself very much embarrassed, covered by "debts through his partner, Moulor, has been compelled to re- "nounce the renewal of the notes due.

"By an arrangement made with him, he will make no "objection to the sale and seizure of the immovables; he will "rather facilitate the execution thereof, on condition that I oblige "myself, buying the immovables in your name, to resell the same "to his wife (from whom he is separated in property), for a price "that will cover all that is due you, interests, costs of Court "and of attorney, provided nobody puts in a higher bid than "what is due you, the accrued interests to be paid cash on the "spot.

"The acceptance of Bouligny and Esclapon, which was "given to pay interest, is to enter in this settlement, the same "not having been paid when due. The terms are not yet fixed, "but may be fixed at any hour (time). I shall not be too exact- "ing, knowing that Mr. Carite continues the plantation at his "expense, and that everything predicts a good crop. As I have "already told you, this property has been entirely reconstructed "so as to be new; it is in perfect condition and covers the mort- "gage it stands encumbered with. Nevertheless, I must let you "know the depreciation of real estate of this kind, when you will "know that the large plantation, Valcour Aimé, has been sold for "$50,000 00 cash, the sale being made by the sheriff, the one of "our regretted friend, St. Fagot, for $40,000 00 in cash, this "last sale in order to effect a settlement with the grand- "children," etc.

On the 3d of March, 1873, Mr. Trémoulet advises Clément that seizure has been made, and the property advertised for sale on the 4th of April. He says: "I am waiting for Mr. Carite to "make our arrangements for the sale I shall make to his wife.

" Mr. Carite continues working the plantation as his own with " the prospect of making a good crop," p. 120.

In his letter of the 19th of April, 1873, he reports the purchase of the plantation for "two-thirds of its appraised value, " that is, $21,385 70, with all that is on the place, twenty-nine " mules instead of forty-five that were there—sixteen mules not " having been paid for, the vendors have obtained permission " from the Court to take them back," p. 120.

In this same letter, he says: " You ask me what objection " Carite could make to the seizure and sale of the immovables. " He could have delayed the sale, and in the meantime let every- " thing go to the devil. You forget, undoubtedly, that the " Pinckard matter had to be settled on account of the bad faith " of the heirs, who employed all possible means to stave off the " sale of the plantation. I have also found that Carite might go " into the United States Court. Then the assignee charged " with the liquidation, not only causes enormous expenses, but " he renders an account to the creditors only when it pleases " him, and when it is convenient to him. Another important " reason is, that I could not do you justice in charging myself " with the administration of this property at the distance where I " am. To-day, the running of a plantation is not like in the " time of slavery. An overseer, who is absolute master of the " hands, can charge you what he does not pay. Beside this, all " expenses of this kind are doubled. The eye of the proprietor " at the place is indispensable to watch his interests. You can- " not trust even the best of overseers. There is always wasting. " In one word, I preferred in your own interest to resell the " plantation, taking all possible precautions, rather than to work " the same for your account, notwithstanding the fine prospect " of the crop," p. 120.

Again in his letter of May 26, 1873, in which he reports the sale made by him to Mrs. Carite, he says: " I have been obliged " to accept from Mrs. Carite a smaller amount than the amount " agreed on, in order to make the sale of the immovable, and

"this in your interest; it was preferable to accept these terms "than to keep the plantation, and work the same for your "account at the present price of labor. In case I should have "refused to effect an understanding with Mrs. Carite, *I would "not have found a purchaser that would have taken the plantation on "the same terms.* Remember that it was adjudicated to you for "$24,385 70, and that there was no other bid but yours. To "be put in possession only, you would have been obliged to pay "$6047 28, and then work the plantation. This would have "eaten up your other resources. No, I say it to you sincerely, "it is very lucky that things could be settled as they have been," "etc. p. 121.

The facts as to the judgment of separation of property obtained by Mrs. Carite against her husband, are as follows:

Finding her husband's condition desperate, she consulted her attorney, Mr. Poché, now an Associate Justice of the Supreme Court of Louisiana, who advised her to obtain a judgment of separation of property from her husband, and thereby effect a dissolution of the community. The suit was commenced and carried on by Mr. Poché, at her expense; and her object was to do something to maintain herself and family. (Answer to 5th Interrogotory, p. 79).

The embarrassed and insolvent condition of Mr. Carite is manifest throughout the record; the evidence of Trémoulet and White confirms the answers of Mrs. Carite to the first interrogatory of the bill, on p. 78, where she gives an incomplete statement of the debts of her husband, he being dead, her information was necessarily inexact.

The petition for separation was filed in the Parish of St. James, on February 13, 1873; it alleges the insolvent condition of her husband, and that all his property will not be sufficient "to pay and satisfy the enormous debt which is due by him."

That in consequence, she fears that the earnings of her separate industry may be seized by her husband's creditors, and thus be lost to herself and children, for which reasons she desires

a separation of property from her husband, and she prays for judgment to that effect. She sets up no claim for property or money against her husband, p. 123. The petition was served on her husband on the 14th of February, 1873, and on the 13th of March he appeared by counsel and filed an answer, in which he denied all the allegations of the petition, p. 124. On the same day the Court proceeded to the trial of the cause, and rendered judgment, dissolving the community of acquets and gains theretofore existing between Mrs. Carite and her husband. The judgment is prefaced as follows: "The within case came up for "trial this day, according to previous assignment, and the Court "after hearing the evidence and argument of counsel, consider- "ing the law and the evidence as being in favor of the plaintiff "and against the defendant, it is therefore ordered, adjudged "and decreed," etc., p. 131.

The evidence adduced to show the embarrassed condition of the husband, consisted of the proceedings of Clément to foreclose his mortgage and the sequestration suit of Neal and McIntyre in the United States Circuit Court, pp. 124-131.

The bill alleges that this judgment is a nullity, because it was, 1st. A consent judgment. 2d. Because Mrs. Carite alleged no claim for property or money against her husband. 3d. Because there was in reality no derangement of the affairs of the husband. 4th. Because the judgment was never executed and no writ of execution was ever issued. 5th. Because the judgment was never published.

The decree declares the judgment null "for want of publication," p. 132. It also declares the marshal's sale of the 5th of April, 1873, and the subsequent sale by Clément to Mrs. Carite, "simulated and illegal," and as such, annuls them, and adjudges that the plantation is community property, and belonged to the community, "as it did before said simulated sales were made," p. 132.

The errors of the Court below are:

1st. In declaring the marshal's sale a simulation and illegal.

2d. In declaring the sale from Clément to Mrs. Clarite a simulation and illegal.

3d. In setting aside and annulling said sales.

4th. In pronouncing the judgment of separation between Mrs. Carite and her husband null and void, and the plantation to belong to the community existing between them, as it did before said sales were made.

1. The first, second and third grounds of error constitute one branch of the case, and will be considered together. These errors are errors of fact, and in the main, depend on an appreciation of the evidence.

The bill alleges that the proceedings to foreclose the mortgage, the various sales, the judgment of separation, and all the proceedings were the result of a conspiracy concocted between Carite and his wife, Clément, and Trémoulet, his agent, for the purpose of defrauding the complainant.

The whole bill is founded on the existence of such a conspiracy: and by the terms of the bill, the conspiracy is confined to the purpose of defrauding the complainant and no one else: for this is no bill filed in the interest of other creditors, or of the holders of the mortgage notes concurrent with those held by the complainant. The conspiracy could not exist without the concurrence of Trémoulet or Clément. It is not pretended that Clément had any knowledge of these Moulor notes, and Trémoulet expressly swears he never knew that Carite gave Moulor $55,000 in mortgage notes for his share, p. 111. The reason he did not know it is, that he never could have dreamed any one would seriously value that plantation at such a price—a price including prior liens, equivalent to $150,000, for the entire plantation.

The next suggestion is that neither Clément nor Trémoulet had any motive to enter into a conspiracy to defraud any one.

The absence of such motive is not left to inference; the correspondence of Trémoulet called for by the complainant, bears on its face proper and honorable motives for his conduct

throughout the transaction, and manifest a sincere desire to protect the interest of his distant principal. Neither Clément nor Trémoulet gained one cent by the operation. All that Trémoulet desired was to secure his principal's debt, and have it placed on an impregnable basis. The dangers resulting from seizures, and impediments interposed by reluctant debtors, and the consequent waste and deterioration, made him apprehensive of disaster, should Carite prove obstinate and feel disposed to interpose the obstacles referred to in the correspondence. That this apprehension existed there can be no doubt, as we find it in the confidential correspondence between Trémoulet and his principal.

This apprenension shows that, in the opinion of Trémoulet, the value of the plantation did not exceed the mortgage claim of Clément, including expenses and prior liens; for if its value had been much greater, there would have been no solicitude about the safety of the debt, or the waste of the property, and no anxiety as to the price it would bring.

That the value of the plantation did not in fact exceed the estimate placed on it by Trémoulet, is evidenced by the fact that, at a public sale, fairly made, there was but one bidder, and he was Trémoulet; that the property was appraised by the persons appointed for that purpose at $36,000; that the only bid made was for $24,000; that the bill does not attack the appraisement or its fairness, nor the sale or its fairness, nor does it allege the value of the plantation to exceed the price at which it was sold at Marshal's sale, nor does it aver that the price agreed to be paid by Mrs. Carite was not the real value of the plantation. Nor is there any evidence to that effect.

The prices at which the property was sold in 1867, or 1869, or 1871 are no evidence of the value in 1873. The sale by Moulor to Carite was manifestly fictitious or unreal; no sane man could be found to sustain such a valuation, and hence the complainant did not venture to open the question of value, either in her bill or in her evidence; and for that reason, the

at the instance of a mortgagee entitled to priority over the mortgage claimed by the complainant, displaced the Moulor mortgage given in 1872. The Marshal's sale, if valid, extinguished the Moulor mortgage; the property, by that sale, became vested in Clément, free from all mortgages subsequent to his own.

In that condition of the property the sale was made to Mrs. Carite in May, 1873; and if the community was not dissolved by the judgment of separation of property, rendered in March, then the plantation, though acquired in her name, belonged to the community, and was liable for the debts of Carite, but the notes held by complainant ceased to be secured by mortgage; they became simple promissory notes, obligations, it is true, binding on the community, but not entitled to be paid in preference to other creditors of the community.

If the notes became, as I have said, simple promissory notes, unsecured by mortgage, they could not be enforced by bill in Chancery; the jurisdiction of the Court is based on the right of mortgage claimed by the complainant, which right she avers was not extinguished by the alleged simulated sale made by the Marshal, in April, 1873.

The law of Louisiana is well setttled as to the effect of a sale at the instance of mortgage creditors.

It is this, if property is offered for sale under a second mortgage, the sheriff cannot sell at all, unless he obtains a bid over and above the amount of the first mortgage; if a bid exceeding the amount of the first mortgage is made, the purchaser pays to the sheriff only the excess of the bid over the first mortgage, and retains in his hands the residue which he holds for the first mortgagee, whose mortgage has not been disturbed or displaced by the sale.

If the property is offered for sale under a first mortgage, the sheriff is authorized to sell for any amount bid, and if that amount is only sufficient to pay the first mortgage and costs, all subsequent mortgages are displaced, and are cancelled by

order of the sheriff. Under this system it is unnecessary to make prior or subsequent mortgagees parties, in order to give the purchaser a clear title.

Where property brings less than the mortgage under which it was sold, all subsequent mortgages fall to the ground.

Hart vs. Foly, 1 Rob. 378.

Salzmon vs. Creditors, 2 Rob. 241.

Fillastre vs. St. Armand, 32 A. 354.

It is therefore manifest that if the Marshal's sale, in April, 1873, is valid, that sale having been made on executory process, issued to enforce the Clément mortgage, of 1869, displaced and extinguished the subsequent mortgage given by Moulor in 1872, under which the complainant claims.

If this be so, the complainant is an ordinary creditor of Carite, for the notes held by her, and this suit must be dismissed.

But the judgment for separation of property was valid, and therefore produced its legal consequence, the dissolution of the community of acquets and gains at that time subsisting between Carite and his wife.

The decree of the Circuit Court declares the judgment of separation of property null "for want of publication."

The jurisprudence of the State does not sustain the decree. It was never held that advertisement of the judgment of separation was necessary to its validity.

In cases where the wife, in her suit for separation of property, has obtained judgment against her husband for money or property, it has been held that such a judgment becomes null, unless followed up by execution or a *bona fide* effort to enforce compliance with the terms of the judgment.

The Civil Code of Louisiana provides as follows:

Art 2425—The wife may, during the marriage, petition against the husband for a separation of property, whenever her dowry is in danger, owing to the mismanagement of her husband, or otherwise, or when the disorder of his affairs induces

her to believe that his estate may not be sufficient to meet her rights and claims.

Art. 2427—The wife must petition for the separation of property, and it can only be ordered by a court of justice, after hearing all parties. It can, in no case, be referred to arbitration.

Every voluntary separation of property is null, both as respects third persons and the husband and wife between themselves.

Art. 2428—The separation of property, although decreed by a court of justice, is null, if it has not been executed by the payment of the rights and claims of the wife, made to appear by an authentic act, as far as the estate of the husband can meet them, or at least by a *bona fide* non interrupted suit to obtain payment.

Art. 2429—The separation of property, obtained by the wife, must be published three times in the public newspapers, at farthest, within three months after the judgment which ordered the same.

If there be no paper published in the place where the judgment is rendered, the publication must be made in that which is published in the place nearest to it.

The Court will observe, at once, the difference between the terms of article 2428, and those of article 2429.

The failure to execute the judgment where it includes a claim for money or property renders the judgment null.

It is null not only as to creditors but between the parties themselves.

Handy vs. Sterling, 1 La An., p. 309.

But no such penalty is affixed by article 2429 to the failure to make publication of the judgment.

The courts in Louisiana have decided that want of publication does not affect the validity of the judgment of separation

It was so held in 1823, prior to the adoption of the Code of 1825, in the case of Turnbull vs. Davis, 1 Martin N. S., p. 568.

The Code of 1808, in force when that decision was made, in article 89, p. 342, provided as follows:

Art. 89—"The separation of property obtained by the wife must be published three times, both in the English and French languages, in at least two of the newspapers which are printed in New Orleans, at farthest within three months after the judgment which ordered the same."

It is perceived that article 2429 is a substantial re-enactment of article 89 of the Code of 1808.

In the case referred to, the Court say:

"It is true that, by law, publication of a separation of property between husband and wife, is expressly required; but the "pain of nullity is not denounced against a neglect of such "publication. It is not a prohibitive regulation, which might, "in some instances, imply nullity. We are therefore of opinion, that a judgment of separation, unattended by publication, is not *ipso facto* void; but if such laches afford any "ground for annulling and declaring it inefficient, it can only "be decreed on showing fraud and injury to third parties, as a "consequence of omitting the publication. In the present case, "there is no positive testimony that the defendants have suffered "injury, resulting from the neglect to publish the decree of "separation; nor can such injury be legally presumed from the "whole tenor of the evidence."

Art. 2403 of the Code of 1825 was adopted under the construction given by that decision to the similar article in the Code of 1808; and the present Code, revised in 1870, retained article 2403 of the Code of 1825 without change except to strike out the words, "both in the English and the French languages."

The case of Turnbull vs. Davis, 1. N. S. 568, was considered, and its doctrine affirmed as late as 1860 in Railford vs. Thorn, 15 La. An. 83.

Since then the question has been considered settled.

It is equally well settled that when the judgment for separation of property does not include a claim for money or property,

it is regarded as a self operative judgment, so far as the dissolution of the community is concerned, and in other respects is considered a judgment not susceptible of execution, and hence the provisions of article 2428 are not applicable to it.

In Jones vs. Morgan, 6. La. An. p. 632, the Court say:

"The article of the Code requiring execution to issue within a limited time after the decree of separation, under a pain of nullity, is only applicable to cases in which there is a judgment against the husband for a sum of money. This precaution is, no doubt, intended for the protection of those with whom the husband is in the habit of dealing. But, in this case, the object of the action was not to recover monies of the wife; it was simply to put an end to the community and then secure to the wife and her children, the future earnings she might derive from her untiring industry."

The judgment of separation of property is also assailed on the ground that it is a consent judgment, and therefore the separation is voluntary, and consequently void under the provisions of article 2427 of the Civil Code of Louisiana already quoted.

It appears by the record that the only consent given in the suit for separation, was a consent to the immediate fixing of the case for trial. It is in these words: "By consent case fixed intanter and answer filed." p. 124.

This point has been expressly decided adversely to the contention of the complainant. In Powlis vs. Cook, 28 La. An. p. 546, the Court say: "It is true in the case at bar, the husband consented that the case might be fixed and tried, but that did not make it a consent judgement."

In the same case the Court decided that when a creditor attacked a judgment of separation of property, the wife is not precluded from introducing other proof, than that adduced in the original case, and then proceeds to say that the husband was in embarrassed circumstances, rendering a separation of property necessary, "is manifest from this litigation if not otherwise

"shown." The same remark may be made of the proof in this case respecting the embarrassed condition of Carite.

Finally, the judgment for separation of property is assailed, because it is based solely on the embarrassed condition of Carite, and on the additional allegation that the wife feared "that the "earnings of her separate industry may be seized by her hus- "band's creditors and thus be lost to herself and children." The petition claims no money or property from the husband, p. 123.

The construction given to article 2425 of the Civil Code of Louisiana, allows the wife to sue the husband for separation of property, although she may have no dotal or paraphernal claims against him, to prevent her earnings from falling into the community.

In such case, the only mode of preserving her earnings for herself and family, is to dissolve the community, otherwise such earnings are community property, and as such, liable to seizure for the debts of the husband.

Where there is no demand for property or money, the disorder of the husband's affairs is a sufficient ground for a judgment of separation of property.

In Wolf vs. Lowry, 10 La. An. p. 273, the Court say: "In "Davoe vs. Darcy, 6 Rob. 342, it was held that the right of the "wife to a separation of property was not limited to the cases "mentioned in article 2399 (now 2425) of the Code, and that "she might obtain a separation of property when the habits and "circumstances of her husband rendered it necessary to pre- "serve for her family the earnings from her industry or talents. "The same question was afterwards decided in the case of Penn "vs. Garland, 7 An. 343, where the right of the wife, which had "been made the basis of an action of separation of property "was the value of a slave which had been given to the wife "during the marriage, and had been alienated by the husband. "The Court reaffirmed the former decision, and held that in "case of the derangement of the husband's affairs this was suffi- "cient to authorize a judgment of separation of property in

"favor of the wife. After these repeated decisions we must "consider the law as settled, the question being one of the con- "struction of statutory laws, involving no fundamental principles."

So Judge Lea, as the organ of the Court, in Mock vs. Kennedy, 11 La. An. p. 527, on rehearing, reaffirms the doctrine that a moneyed claim, or a claim for property on the part of the wife, is not necessary to support a judgment for separation. He says:

"In this case the only question is, whether the judgment for "a separation of property obtained by the plaintiff against her "husband is valid or not. It is to be remarked, that the wife is "not seeking to enforce any moneyed claim upon her husband's "property adversely to his creditors; if this were the case, it "would be incumbent upon her to establish affirmatively the val- "idity of such claim. But the question presented is one of title. "Does the property seized in execution belong to the plaintiff, as "her separate property, or not? If the judgment of separation is "valid, it is her property, for it has been acquired by her in her "own name and upon her personal credit, since the date of the "judgment. Every one of the witnesses who knew the plaintiff "prior to her marriage with Rose testifies to the fact that she had "a separate industry. She kept a clothing store. Now it matters "not whether her husband took possession of this store or not; it "is equally immaterial whether she had or had not property at "the time of her marriage, so far as this litigation is concerned, "as she is not seeking to enforce a paraphernal claim; it is suffi- "cient for a married woman to prove that she had the skill and "industry to earn a separate livelihood, which she had exercised, "whether as a seamstress, teacher, milliner, or as in the case at "the bar, a shopkeeper, is not material; she is entitled, under the "humane spirit of our jurisprudence, upon proof of this fact, "accompanied by proof of the insolvent condition of her hus- "band's affairs, to call upon the Court by a judgment of separa- "tion, to protect the fruits and earnings of her separate industry "from being squandered by her husband, or seized by his cred- "itors.

The case of Hanna vs. Pritchard, 6 La. An. 734, merely decides that where the wife, in her petition for separation, based her right *exclusively* on the ground of claims against her husband, the failure to establish any claim against him will render the judgment of separation null.

In Robertson vs. Davis, 9 La. An. 269, the demand for separation was put solely on the ground of the disorder of the husband's affairs, and the judgment was declared null because there *was no evidence to support the allegation as to such disorder.* The loose dicta in these cases are not regarded as in any manner affecting the doctrine announced in Darcy vs. Davock, 6 R. 342, reaffirmed as it has been in 10 La. An. 272, and 11 La. An. 527, already quoted, and the latest cases on the point.

ADDITIONAL ASSIGNMENT OF ERROR.

The decree orders the sale of the "entire plantation," whereas the mortgage given by Carite to Moulor covers only *the undivided half interest therein, which Moulor sold to his co-partner, Carite, on the 30th December,* 1872; nor does the decree make any allowance for the rebuilding of the stables and the replacing of the mules destroyed by fire, which Moulor bound himself to pay the cost of, p. 40.

A careful examination of the Moulor act of sale and mortgage, pp. 35–41, will lead to the conclusion that so far as regards the notes for $55,000 given by Carite to Moulor, that mortgage affects only the property sold by Moulor to Carite, that is to say, one undivided half interest in the plantation.

The act recites the partnership between Moulor and Carite, formed on the 11th of January, 1871, the undivided half interest of each in the plantation; the dissolution of the partnership and its settlement; and then proceeds thus: "the said Mr. Moulor "sells, cedes, etc., to the said Casimir Carite, etc., his *one undivided* "*half* in the following described properties, composing the said "sugar plantation to wit," etc., p 35, "the *present sale* is made,

agreed and accepted for, and in consideration of the price and sum of $55,000, payable," etc., p. 56.

After describing the previous liens on the plantation which Carlile is to assume, the act proceeds to say, that Carlile binds himself to pay the notes representing the $55,000; and declares that as a security for the payment of the notes, the said Carlile "declares he affects, hypothecates and mortgages specially and with privilege the *property presently sold and described above*," etc.

"The said Casimir Carlile binding himself expressly not to sell, alienate, nor mortgage in any manner the *property presently sold to him*, nor any part thereof, to the prejudice of the *privileged mortgage* resulting from this act," etc., p. 59. In the French, at p. 52, it is "l'hypothecque privilegiée."

Now a privileged mortgage can only result from a *sale*, and only affects the *thing sold*. If I sell land A, and put a mortgage on land B, to secure the payment of the price, such mortgage is an ordinary mortgage, but if the vendee mortgages to me land A, to secure the payment of the price given for it, I have as my security the *vendor's privilege*, accompanied by a mortgage—in other words a mortgage and privilege combined.

Hence, the terms "privileged mortgage" are only applicable to the undivided half interest of Moulor, which, by the act, was sold to Carlile.

It is therefore plain, that if the complainant has any mortgage claim at all, which is susceptible of enforcement against Madame Carlile's plantation, it is confined to one undivided half interest therein, subject to the reimbursements provided for in that part of the mortgage found at p. 10 of the transcript.

Respectfully submitted,

THOS. J. SUMMERS,
Of Counsel for Appellants.

SUPREME COURT U.S.
FILED
FEB 11 1922
JAMES H. McKENNEY

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1881.

No. 276.

MADAME CELESTINE CARITE ET AL., APPELLANTS,

versus

MADAME FELICITÉ TROTOT.

Supplemental Brief of Appellants.

THOS. J. SEMMES,
For Appellant.

A. W. Hyatt, Print, 73 Camp St. N. O.—21,837

SUPREME COURT OF THE UNITED STATES.

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MADAME CELESTINE CARITE ET AL., APPELLANTS,

versus

MADAME FELICITE TROTOT.

Supplemental Brief of Appellants.

1st. The appellee's brief assails the judgment and separation of property obtained by Mrs. Carrite against her husband, in the Parish Court, on the ground that the court had no jurisdiction to entertain the suit.

This ground of objection is not mentioned in the bill of complaint, nor was it in any manner brought to the notice of the court below.

For this reason alone the Appellate Court will not consider it. Edwards vs. Elliot, 21 Wallace, 532; Cucullu vs. Hernandez, 103 U. S. 117; Wilson vs. McNamee 102; U. S. 572. But the objection is without foundation.

Article 87 of the Constitution of 1868 vests in the Parish Courts "jurisdiction concurrent with the justices of the peace, "in all cases where the amount in controversy is more than "twenty-five dollars, and less than one hundred dollars, exclu- "sive of interest. They shall have exclusive original jurisdic- "tion in ordinary suits in all cases where the amount in dispute "exceeds one hundred dollars, and does not exceed five hun- "dred dollars,"

In the case of Willis vs. Ward, 39 La. 1282, the Supreme Court passed upon a judgment of the Parish Court in a separation case, without comment.

It was held that the Supreme Court, when jurisdiction was limited to cases, involving an amount exceeding $300, would assume jurisdiction of suit for separation from bed and board, although it did not present a question appreciable in coin.

Rowly vs. Rowly, 19 La. 567.

Article 2427 of the Civil Code delares that separation of property can only be ordered on the *petition* of the wife by a *Court of Justice*. These terms, "petition," and "Court of Justice," are never used with reference to proceedings before justices of the peace.

Therefore, the District Court or the Parish Court must have jurisdiction of cases for separation of property, when no amount of money or property is claimed, or no court can entertain such suits.

2. The statement in appellee's brief (p. 15) that it was held in the cases cited by counsel that publication must be made, is not correct.

But two cases are cited. In Bostwick vs. Gasquet, 11 La. R. 537, the Court says:

"That a judgment of separation is null under the Code, if it "has *not been executed* by the payment of the rights and claims "of the wife, made to appear by authentic act, or at least by a "*bona fide non-interrupted* suit to obtain payment; and that when a "judgment has been obtained and published, the situation of the "parties is as if no community had existed between them."

The case did not turn on the question of publication, as appears from the bill of exceptions, and any remark on that subject was casual and unnecessary to the decision of the case.

The same may be said of the remarks made by the Court in Hyman vs. Sheriff, 27 La. A. 195.

The grounds on which the judgment of separation was attacked, are mentioned on p. 194. Want of publication was not one of them.

The Court, however, says: "We will also remark, that the "judgment of separation was a nullity, *because it was not executed* "by a giving in payment, or by a *bona fide* non-interrupted suit "to obtain payment, as required by Article 2428 of the Revised "Code, nor was it promptly published, as required by Article "2429." The latter clause was an enunciation unnecessary to the case.

In the face of the deliberate judgments rendered on this point in Turnbull vs. Davis, 1 Martin N. S. 569, and Railford vs. Thora, 15 La. An. 83, the Court will not adopt the loose expressions in other cases as the doctrine of the Courts of Louisiana on this subject. So, the remark made by the Court in Levistone vs. Brady, 11 La. A. 697, was *obiter* and unnecessary. A sufficient ground of nullity in that case, and one on which the Court puts its decision, was that the judgment of separation had been rendered by consent. The Court then says: "In addition, there is "no evidence of its publication or execution, as required by "Articles 2402 and 2403 of the Civil Code."

3. It is urged that as the Parish Court, in the separation of property suit, rendered judgment for costs in favor of Mrs. Carite, her judgment has become null for want of execution; that in fact, a judgment for costs is a judgment for money, requiring execution under the Code.

But what is the language of Art. 2428? "The separation of property, although decreed by a court of justice, is null if it has not been executed by the payment 'of *the rights and claims of the wife*,'" etc.

Payment of the *rights and claims* of the wife constituting the *foundation* of the suit and judgment of separation, must be enforced by execution; but such rights exist anterior to the suit, or at the time of suit brought, and therefore, the article can have no reference to claims or rights accruing subsequently to the suit, and incident to it. The suit alone gives rise to costs, and it cannot be said they are rights and claims of the wife, for the costs of suit, unless previously paid by the wife, are due to the officers of justice; where the plaintiff pays the costs, she becomes subrogated to the rights of the officers.

Respectfully submitted.

THOS. J. SEMMES,

For Appellant.

JAN 23 1882
JAMES H. MCKENNEY

SUPREME COURT OF THE UNITED STATES

IN CHANCERY—OCTOBER TERM, 1881.

No. 276.

MME. CELESTINE CARITE et als. APPELLANTS

versus

MADAME FELICITE TROTOT, APPELLEE.

Appeal from U. S. Circuit Court for the District of Louisiana.

JOSEPH P. HORNOR,
W. S. BENEDICT,
of Counsel for Appellee.

New Orleans, 24th January, 1882.

L. Graham & Son, Book and Job Printers, 127 Gravier st.

SUPREME COURT OF THE UNITED STATES

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versus

MADAME FELICITE TROTOT, APPELLEE.

Appeal from U. S. Circuit Court for the District of Louisiana.

BRIEF FOR APPELLEE.

On the 18th of September, 1869, by act before C. V Foulon, Notary Public, Casimir Carite, J. B. Moulor, and C. L. Copponex, entered into a copartnership for a limited time, under the firm name of Copponex & Co., for the purpose of purchasing and cultivating a sugar plantation in which each was to be equally interested.—p. 13.

On the 22nd of September, 1869, by act before the same notary, Copponex & Co. purchased a plantation, the title to which is in question in this suit, from Antoine C. Tremoulet, acting as the agent and attorney

in fact of Jean Baptiste Clement, who then and now resided in France. The price paid by Copponex & Co. for the plantation was $55,000 00, of which $10,000 00 was in cash; the purchasers assumed payment of the Citizens' Bank mortgage for $6,764 00, and for the balance of the price, $38,236 00, Copponex & Co. gave their four several promissory notes secured by mortgage and vendor's lien upon said property, each for $9,559 00, all dated New Orleans, 22d September, 1869, and payable respectively on the 1st days of September of the years 1870--1871--1872 and 1873, with interest at the rate of eight per cent. per annum from date.—pp. 16 to 23.

The firm of Copponex & Co. seemed to have cultivated their plantation with success until the 11th of January, 1871, when by act before Dugas, Recorder of St. James, Copponex sold his interest to his co-partners for ten thousand dollars cash, they assuming the debt of the firm to the Citizens' Bank and the notes to Clement.—pp. 23 to 27.

Moulor and Carite carried on the sugar plantation successfully for nearty two more years when, on the 30th of December, 1872, Moulor sold out to his partner, thus leaving Carite the sole owner of the plantation. By the terms of this sale Carite assumed all the outstanding indebtedness of the old firms, viz.: 1st, $5,573 00 due the Citizens' Bank. 2d, $9,559 00 of the vendors' mortgage granted by Copponex to Tremoulet, interest on which had been paid to January 15th, 1873. 3d, $9,559 00 of the same, on which interest had been paid to the 28th of February, 1873.

4th, $9,559 00 of the same, bearing interest from the 22d of September, 1869, and in addition to these assumptions, Carite gave to his retiring partner, Moulor, the additional sum of $55,000 00, which sum was represented by 11 promissory notes of $5,000 00 each, payable at different periods and secured by mortgage upon said plantation, in favor of any holder or holders thereof.—pp. 35 *et seq.*

After setting forth in her bill these various transactions and assumptions (pp. 1 to 3), the complainant alleges that she is the holder and owner of five of the mortgage notes for $5,000 00 each, given by Carite as aforesaid to his partner, Moulor, and she also alleges that she is owner of two other ordinary notes of hand of said Carite, one for $3,000 00 and the other for $1,000 00, and further alleges that all seven of said notes are now past due and owing.(pp. 3, 4), and she attaches said notes to her bill (pp. 41 to 44) and also authentic copies of all the notarial acts, and shows by certificates annexed that the aforesaid mortgages were regular and legally recorded according to the laws of Louisiana.—pp. 13, 23, 27, 35, and particularly pp. 44, 45.

Complainant then alleges that prior to the 10th day of February, 1873, about a month after Carite had become the sole owner of the plantation, and had issued the mortgage notes held by the complainant, the said Casimir Carite entered into a conspiracy with his wife and said Tremoulet, defendant herein, to injure and defraud the holders of his said 11 mortgage notes, of which the complainant holds five, as we have seen,

by which the conspirators agreed with Mrs. Carite that she should obtain a judgment of separation of property from her husband, and by which Tremoulet should begin proceedings for the foreclosure of the mortgage held by him for Clement; and cause the plantation to be seized and sold, and buy it in in the name of Clement, for the amount of Clement's mortgage, and by this proceeding cancel the other mortgages inferior in rank to Clement's; Tremoulet agreeing to afterwards transfer the plantation back to Mrs. Carite after she should obtain her judgment of separation, for a sum in notes bearing first mortgage and vendor's privilege, amounting to the sum that should be due Clement in principal and interest at the time of said transfer.—pp. 4 to 7.

It will be seen that the result of this conspiracy was to defraud the holders of the mortgage notes given by Carite to Moulor, by cancelling the mortgage which secured them, and by putting the property in the name of Mrs. Carite, by which the conspiracy hoped to shield it from the pursuit ot the creditors of her husband.

A letter produced by Tremoulet, from him, addressed by him to his principal in France, shows that this conspiracy was fully matured and agreed to at the time of the date of said letter, which was the 7th of February, 1873.—pp. 115 and 119.

In pursuance of this conspiracy, on the 10th of February, 1873, Tremoulet caused suit to be entered upon the mortgage notes which remained due, that he held for Clement, in a suit entitled Jean Baptiste

Clement vs. Casimir Carite, No. 6916 of the Docket of this Court, and obtained a writ of seizure and sale against Carite, and seized and advertised the plantation for sale, by, and with the consent of Carite, who entered no appearance, and made no defence.—pp. 57 *et seq.*

In further pursuance of the conspiracy, and in accordance with the terms thereof, Carite caused his wife to enter a suit against him in the Parish Court of the Parish of St. James, in which she represented that she was married on the 23d of April, 1863, in New Orleans, and that there existed a community of acquets and gains, and that her husband had become hopelessly involved in debt, and prayed for a judgment of separation of property from her said husband. That in pursuance of the said conspiracy, a pretended defence was made by Carite to the suit of his wife, and on the 13th of March, 1873, judgment was rendered in favor of Mrs. Carite, granting her a separation of property and dissolving the community.—pp. 123 *et seq.*

That in further pursuance of the conspiracy, Tremoulet and Carite caused the plantation to be sold by the marshal on the 5th of April, 1873, and Tremoulet bought it in as agent for Clement for a price less than the amount due to the Citizens' Bank and to Tremoulet, aforesaid.—pp. 45 *et seq.*

The sale made by the marshal took place on the 5th of April, 1873, and was not recorded until the 28th of May, 1873 (p. 50), prior to which recordation, on the 22d of May, 1873, in further pursuance of the conspiracy, Tremoulet, acting as agent of Clement, sold

the plantation to Mrs. Carite for a pretended small amount of cash and the balance in her notes, secured by mortgage and vendor's privilege (pp. 52 *et seq*). The conspirators thus consummating, as far as they were able to, the object of their conspiracy.

It must be observed, that the sale to Mrs. Carite was made on 22d May, 1873, at which time the title to the property still absolutely stood in the name of her husband—the marshal's deed to Clement not being recorded until the 28th May, 1873 (p. 50), six days after the sale to Mrs. Carite.

It is further alleged, and fully proven by the evidence, that during the whole of the time that these proceedings were carried on, and up to the time of his death, which occurred some years thereafter, Carite remained in full possession and control of the plantation, and cultivated it under his own personal supervision, and transacted all its business affairs, exactly as he had done before the conspiracy had been entered into. —Testimony of White, p. 100, Tremoulet, pp. 113, 110.

The bill then goes on to allege that the judgment thus obtained by Mrs. Carite from her husband was absolutely null and void (pp. 5, 6, 7).

First. Because said judgment was never advertised as required by the Civil Code of Louisiana.

Second. Because the judgment of separation was never executed in any manner as required by law, nor did any writ of execution ever issue upon it.

Third. Because she had no grounds for the action of

separation, and no right to the dissolution of the community.

Fourth. Because the judgment of separation was taken by consent between husband and wife.

Fifth. Because said judgment of separation has no force as against creditors, for want of evidence to sustain it.

Sixth. Because the Parish Court had no jurisdiction to entertain Mrs. Carite's suit against her husband, or to render judgment therein on the issue presented.

The bill further alleges that the pretended title of Mrs. Carite to the property in controversy was fraudulent and simulated, as well as the different transfers above set forth, and claimant prays that they be set aside and annulled, and the property subjected to the mortgage claims of complainant.—p. 9.

All of the answers amount to a general denial of the material allegations of the bill (pp. 73, 75, 89, 90, 91, 96), except that the last contains a plea of prescription, and all will be further noticed hereafter.

FACTS.

All of the allegations of the bill relating to the judicial proceedings taken by the conspirators are proven by the records of the court in which they took place, and which have been referred to.

All the different transfers of the property, and the different mortgages upon it, and the rank and priority of the same, are proven by the different exhibits annexed to the complainant's bill, and which have been referred to.

Thus far, there is no controversy as to the facts.

The fact of the conspiracy is proven by the testimony of the defendant, Tremoulet (p. 107 *et seq.*), and by the admissions made by both of the defendants, Tremoulet and Mrs. Carite, in their answers to the interrogatories propounded in the complainant's bill (pp. 78 *et seq.*, and pp. 91 *et seq.*); although both of them flatly deny the existence of any such conspiracy. We think it is also conclusively shown by the testimony of Judge White (pp. 97 to 107), although we believe it is contended by the other side, that this testimony disproves its existence.

T H E

Tremolet, in his testimony, alludes to several letters written by him to his principal, Clement, at the time when we allege the conspiracy was organized, and he has produced copies of these letters which are annexed to his testimony (pp. 119 to 122). The first of these letters is dated New Orleans, the 7th of February, 1873, three days prior to the institution of the suit of Clement against Carite, and six days prior to the institution of Mrs. Carite's suit against her husband. It reads as follows:

"By an arrangement made with him (Carite) he will make no objection to the sale and seizure of the immovables; he will rather facilitate the execution thereof, on condition that I oblige myself, to buying the immovables in your name, to sell the same back to his wife (from whom he is separated in property), to a price that will cover all that is due you, interest, costs of court and of attorney included, provided nobody puts in a higher bid than what is due you. The

accrued interest is to be paid cash on the spot."---p. 115, translation, p. 119.

Philips

This is full proof of the formation of the conspiracy, and the institution of the two suits and the proceedings which follow, show that it was carried into execution.

In his testimony, at page 107, Tremoulet says that he had no agreement with Carite prior to the institution of the suit of Clement against him. This is disproved by his letter to Clement, which we have already quoted. He then goes on to acknowledge that he did make the agreement with him after the marshal's sale of the plantation to him as agent for Clement.—p. 108. In his answers to the interrogatories propounded in the bill, he says, after denying that there was any conspiracy, "I found it necessary to protect the intesests of Mr. Clement, to foreclose the mortgage, that having communicated that fact to Mr. Carite, he agreed to make no objection to said proceedings (which I feared he would), *on condition*, that if the property did not sell for more than was due Mr. Clement, I, as his agent would purchase the same, and resell it to Mrs. Carite, who was separated in property from her husband." See his answer to the 8th interrogatory.—p. 93.

In rebuttal of this overwhelming proof of the existenee of the conspiracy, it is argued by the respondents that it was necessary for Tremoulet to bring his suit upon Clement's mortgage, in order to protect the movables upon the plantation, such as mules, etc., from seizure by Carite's creditors. But this is a very flimsy pretext, for that object could have been accomplished

by the issuance of an injunction, at a very slight cost, —certainly not exceeding five hundred dollars, while it appears that the proceeding taken by Tremoulet occasioned an expense of $1,328 00 for costs, and $1,700 00 for attorney's fees; making a grand total of over $3,000 00. See statement annexed to Tremoulet's testimony, p. 121, and the return of the marshal upon the writ of seizure and sale.—p. 62.

The argument is also used, that Carite was insolvent, and it was necessary for Clement's interest that the mortgage should be foreclosed. But this is disproved on the face of the papers, by the fact that in less than two months prior to the institution of Clement's suit, Carite had purchased the *half interest* of his partner in the plantation, for $55,000 00, over and above all the mortgages on the plantation which were assumed by Carite (pp. 35 *et seq.*); thus showing the valuation of the property at that time, by Carite himself, of over $150,000 00. Besides, all the evidence goes to show that Tremoulet and Clement did not want to be paid the principal of Clement's mortgage, and were perfectly willing to let it remain unpaid for an indefinite time upon interest Tremoulet and Clement gained nothing by the foreclosure of the mortgage, for they had a vendor's lien and privilege, as well as the mortgage, before the foreclosure, and had only the same security, after their sale to Mrs. Carite. In short, to sum it up briefly, there was nothing effected by the foreclosure of the mortgage so far as Tremoulet and Clement were concerned, except to change their debtor from Mr. Carite to his wife. It is not reasonable to suppose that

the sum of three thousand dollars ($3,000 00), which we have shown these proceedings cost, were paid to effect that result, but it becomes self-evident that that money was paid to attempt to defraud the other creditors of Carite, by placing his property beyond their reach.*

II.

We now come to the question of validity of the judgment of separation of property between Mrs. Carite and her husband, which judgment we allege in our bill to be an absolute nullity:

FIRST—BECAUSE IT WAS NEVER ADVERTISED.

The article 2429 of the Civil Code expressly provides, that "The separation of property obtained by the wife *must* be published three times in the public newspapers at the farthest within three months after the judgment which ordered the same."

The defendant, Mrs. Carite, admits in her answer that the judgment was never advertised, (p. 77) but her counsel claim in argument that the advertisement was unnecessary, and they cite, in support of that position, the opinions of our Supreme Court in Turnbull vs. Davis, 1st Martin's New Series, 569; and Raiford vs. Thorn, 15 La. Ann. Rep. page 83.

In the latter case, the Court simply refers to the decision of the former approvingly, without comment of

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*But it is urged by counsel for Clement and Tremoulet that they did nothing but what they had a right to do, that is, to pursue their debtor at law, but the Louisiana Supreme Court has held: "A fraud perpetrated by the machinery of a judgment, where the Court was made the unconscious instrument, is as liable to be annulled as when effected in the usual forms of a contract."—Prats vs. His Creditors, 5 Rob. (La.) Rep. 288.

any kind. In the case of Turnbull vs. Davis, the Court argues as follows:

"It is true, that by law, publication of a separation of property between husband and wife is expressly required; but the pain of nullity is not denounced against a neglect of such publication. It is not a prohibitive regulation, which might, in some instances, imply nullity. We are therefore of opinion, that a judgment of separation unattended by publication is not *ipso facto* void; but if such laches afford any ground for annulling and declaring it inefficient, it can only be decreed on showing fraud and injury to third parties as a consequence of omitting the publication."

It is hard to comprehend how the Supreme Court of Louisiana could arrive at such a conclusion in the face of the expressed provision of the Code. The preceding article (2428 C. C.) provides for the nullity of the judgment in case it be not executed, and we think we may with safety contend, that in article 2429, providing for the publication of the judgment, the Legislature merely intended to provide an additional mode of executing said judgment. The intention in giving publicity to such judgment was to further notify the creditors of the husband of the dissolution of the partnership between the spouses, in order to give them an opportunity of at once asserting their rights. How else could his creditors be expected to learn that the community had been dissolved?

We confidently submit that this Court cannot be bound by such an interpretation of the statute made by the State Court, although we admit it would be in

an ordinary cause; but the decision under consideration is a mere *ipse dixit* by which the language of the Legislature is changed from "must" to "may."

In the case of Minor vs. Mechanics' Bank of Alexandria, 1 Peters, page 46, and in various other decisions to the same effect, the Supreme Court of the United States have decided, as a general rule of construction, that "the word '*may*' is to be construed '*must*' in all cases where a Legislature mean to impose a positive or an absolute duty, and not merely to give a discretionary power." But we venture to assert that no case can be found in which any Court has construed the word "*must*" in a general statute to mean "*may*," except in those relied upon by our opponents.

We venture to call the Court's attention to another clause of the article of the Code under consideration, which seems to have escaped the attention of the Supreme Court of Louisiana, and that is, that "not only is it required that the separation of property *must* be published," but further, that "it *must* be published *within three months* from the date of the judgment." That has not been done in this case; no advertisement whatever has been made, and the judgment is several years old. The nullity of a sheriff's deed of sale for the want of a proper advertisement has been frequently declared by the Louisiana courts; yet there is no provision of law which says, in so many words, that if there be no advertisment the sale shall be null! the law simply says the publication *must* be made! if it is not, the natural result of nullity follows, of course.

Now, we humbly contend that if anything be required to be done in judicial proceedings within a limited time, if it be not done within that time, it cannot be done afterwards, and that, therefore, the whole proceeding becomes invalid and void.

This doctrine is especially recognized in the case of Spires vs. McKelvey, 23 La. Ann. Rep., page 571. The Court held that the judgment obtained by the wife against her husband for separation of property, which was not published, was void, and that the wife was entitled to regard it as a nuullity, and to bring a new suit for separation of property as if no former judgment had been rendered between herself and her husband.

And in the case of Levistones vs. Brady, 11 La. Ann. Rep., page 697, the Supreme Court of Louisiana held that a judgment of separation of property must be *both* executed and published, or it would be void against creditors. And they so declare such a judgment, which was then before them, null and void, from there being no evidence of this publication and execution as required by law.

We think that these two decisions are more consonant with reason, justice, and equity, than the two cited by our opponents; and that in the 23d Annual being the latest on the subject, ought to govern, and be taken as reversing the doctrine laid down in Turnbull vs. Davis, 1st Martin, N. S. page 569.*

The general rule of the Supreme Court of the United

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*And this decision is *distinguished* afterwards by the Louisiana Supreme Court, as being rendered in a suit where there was no allegation of fraud and collusion.—See DeBlanc vs. DeBlanc, 4 Lou. Reports, 422.

States, governing the Federal Courts, that they will follow the interpretations of the statutes of the different States, as held by the latest decisions of the State Courts thereon, is one not wholly without exception: for the Supreme Court of the United States has held that the construction of the State statute by the State Court must be *reasonable and satisfactory*; and in the case of the Township of Pine Grove against Talcott, 19 Wallace, page 677, they say, "With all respect for the eminent tribunal by which the judgments were pronounced, we must be permitted to say that they are not satisfactory to our minds."

There is another consideration which must not be lost sight of in interpreting the article of the Code requiring publication, as it applies to the case at bar. In both the cases quoted by our learned opponent in 1st Martin, N. S., and 15 La. Ann. Rep., execution had issued upon the judgment of separation in those cases, and the creditors had thus, in some part, been notified as required by law; but here no execution has been issued, and no notice of any kind whatever given to the creditors.

It was held in the following cases, that publication *must* be made:

Bostwick vs. Gasquet, 11 Lou. Rep. 537.

Heyman vs. The Sheriff, 27 La. Ann. Rep. 195.

SECOND. BECAUSE THE JUDGMENT WAS NEVER EXECUTED.

The article 2428 of the Civil Code of Louisiana, as we have seen, provides that the judgment of separa-

tion of property between husband and wife is null, if it has not been executed. But it is contended on the other side that in a case like this it was not necessary to issue execution upon the judgment, and it is admitted that there was none issued (page 77), and we are referred to the case of Holmes vs. Barbin, 13 La An. Rep., page 474.

In that case, the Supreme Court of Louisiana declared the judgment had been executed so far as it was possible to execute it, and that it did not appear that a monied judgment was demanded against the husband in the petition, and that the wife was recognized as the owner and administratrix of her *paraphernal property*. They also declared that the husband had been proved to have been truly insolvent, and that an execution, even for the small amount due by the judgment, would have been a vain thing.

In all these respects, that case is different from the one at bar. But the most suggestive fact in *that case* is the declaration by the Court, while saying that execution was not necessary, was that "this judgment was duly advertised."

We are also referred to the case of Jones vs. Morgan, 6 La. Ann. Rep., page 632. In that case, it is true that the Court say that the execution was not necessary, but upon an examination your Honors will find that there was an overshadowing fact in the record sufficient to induce the Court to depart from the rule as laid down in the statute; and that was, that the complaining creditor who sought to annul the

judgment of separation of property had been himself the *Judge* who rendered that judgment.

On the other hand, we call your Honors' attention to the following decisions:

Bostrick vs. Gasquet, 11 La. Rep. 537.

Darcy vs. Labennes, 31 La. Ann. Rep., 404.

Morrison vs. Citizens' Bank, 27 La. Ann. Rep., page 403.

Wachman vs. LeBlanc, 28 La. Ann. Rep., p. 345.

Succession of Hearing, 28 La. Ann. Rep., p. 151.

In the latter case, the Court held that the judgment of separation of property was not only null as to creditors, but also null as between the parties themselves.

But, is not our learned opponent in error, when he says that the judgment in this case is not a moneyed judgment? To be sure, it does not decree any particular sum of money to the wife, but it does give her a judgment against her husband for the costs of suit, and for this, if for nothing else, execution should have issued against the husband, or a continual suit maintained against him *bona fide* to obtain payment under C. C. 2428.

What would have been the result if such a course had been followed? Would there have been such results as the Legislature intended, when it enacted the statute? The wife could have seized the household furniture and movables belonging to the husband or to the community, which were located upon the plantation in controversy here, upon which the spouses resided, and which effects, we may judge from the fact

we are astounded at the result! What industry does the wife carry on, according to evidence, to support herself and her children after she obtains this judgment of separation? She lives with her husband and her children upon the same sugar plantation that she resided upon with them prior thereto. No change takes place whatever in the mutual relations of the spouses. The husband manages the business as before. He cultivates the plantation. He ships its crops to market at New Orleans. He disposes of it. He attends to all necessary business with his factor. He pays the surplus proceeds into the hands of his creditor, with whom we have shown he conspired; and the wife, meanwhile, pursues the same life and attends to the same duties of the family which she performed before the judgment, and *nothing more.*—See testimony of Tremoulet, p. 107 *et seq*,

"There having been no indebtedness from her husband to her, the action of separation had nothing to rest upon, and the judgment rendered therein is null and void."

Hanna vs. Pritchard, 6 La. An. Rep., page 735.

"The law does not give to the wife an action against her husband for a dissolution of the community, unless she has rights and claims against her husband, which are in danger from his embarrassment or mismanagement. No such case is here presented, and the plaintiff's action must consequently fail."

Robertson vs. Davis, 9 La. Ann. Rep., page 269.

FOURTH.—AS TO THE NULLITY OF THE JUDGMENT OF SEPARATION ON ACCOUNT OF THE CONSENT OF THE PARTIES.

"Every voluntary separation of property is null, both as respects third persons, and the husband and wife between themselves."—C. C. 2427.

From the evidence adduced in this case, to which we have referred in that part of our brief relating to the conspiracy between the husband and wife and the first privilege creditor of the community, we have conclusively shown that this separation of property, which was obtained after the formation of the conspiracy, was a part thereof; and hence show that the whole proceedings were voluntarily taken with the active connivance of both spouses; and it seems to us that the mere statement of facts shows the separation of property to have been a voluntary one, and therefore null.

FIFTH.—THE NULLITY OF THE JUDGMENT OF SEPARATION BECAUSE OF WANT OF EVIDENCE TO SUSTAIN IT.

The law of Louisiana is very favorable to creditors in actions of this kind. In the case of Malone vs. Her Husband, 10 La. Ann. Rep., page 83, the Court says: "It must also be borne in mind that our law looks with an unfavorable eye upon cases of separation of property between husband and wife, and holds out to creditors every facility for the protection of their rights." It is also held in that case, and in others where the validity of the judgment of separation is contested by creditors, the wife must prove, both in the court

where she brings her suit against her husband and in the suit brought against her by the creditor, all the necessary facts which entitle her to the judgment of separation.

Phelps vs. Rightor, 15 La. Ann. Rep., page 33.

Lacombe vs. Her Husband, 8 La. Ann. Rep., page 485.

Now, in the present case, it became necessary for the wife to prove, under the showing made by her counsel, 1st, the insolvency of her husband; 2d, the danger to which her future earnings would be exposed; and 3d, her ability to earn money for herself. We hold that she has failed in all three particulars.

Certainly, the wife has produced evidence to show that her husband owed large sums of money, but there is no testimony whatever to prove he was not able to meet the same.

There is no evidence to show that he did not have more than sufficiant assets to pay all his liabilities. Indeed, we have shown that a few weeks before the suit for separation was commenced he became, by purchase, the sole owner of the plantation, which he then valued at $150,000 00.

There was no evidence whatever adduced to show either that the wife was able in any way, by her individual exertions, or labor, or skill, or capital, to earn anything; and equally as little evidence to show that if she could earn anything, it was in any danger from the creditors of the community.

Webb vs. Peet, 7 La. Ann. Rep., 92.

SIXTH.—JUDGMENT OF SEPARATION NULL BECAUSE THE COURT HAD NO JURISDICTION.

We respectfully submit to your Honors, that the Parish Court of the Parish of St. James, State of Louisiana, in which the suit for separation of property was brought (p. 123), was without jurisdiction *ratione materiae*, and that therefore the judgment of separation is null and void.

The jurisdiction of the Parish Courts of the State of Louisiana is fixed by article 87 of the Constitution of 1868 (then in force), and the only clause of that article under which it could be pretended that that Court had jurisdiction is as follows:

"They (the Parish Courts) shall have exclusive jurisdiction in original suits in all cases where the amount in dispute exceeds one hundred dollars, and does not exceed five hundred dollars."

Our first position is that if it be contended that the Parish Court had jurisdiction under this clause, because Mrs. Carite's demand did not exceed $500 00, then we say that said Court could not have jurisdiction because her demand did not exceed one hundred dollars!! She claimed no amount whatever from her said husband.

Our second position is, that under the pleadings in the suit for separation, Mrs. Carite avers that there is an "enormous debt" due by her husband, and also, that he was possessed of "considerable means and property," and we submit that these were material issues involved in the case; and "considerable means and property" and an "enormous debt" plainly means

that both property and debt exceeded $500 00, and that therefore the matter in dispute was beyond the jurisdiction of the Court.

Our third position is, that from the evidence introduced by Mrs. Carite in her suit for separation of property (pp. 124 to 130, being the record of Clement's suit against Carite, the husband), it plainly appears that the community existing between her and her husband, which she sought to dissolve, was, at the time of the filing of her petition against him, possessed of property worth very much over five hundred dollars; for the evidence in her case shows that the community owned a plantation, the one now in dispute, and of a very valuable character, and which we say was worth $150,000 00, and upwards. Her evidence filed in her suit also shows that her husband owned ten mules which had been seized by Neil & McIntyre, which must certainly have been worth more than $500 00. All this evidence will be found in the record of the suit of Mrs. Carite against her husband, from pages 129 to 130.

Our fourth position is, that as any creditor of the community under the laws of Louisiana had a right to intervene in and contest the wife's right to the separation of property in her suit against her husband, such suit must necesssarily be brought in a Court which will have jurisdiction over the claims of such creditors, and if such claims or any of them exceeded in amount the sum of $500 00, it is evident that the Parish Court could not have jurisdiction of the suit. Any other construction would debar the right of the creditor

holding a claim over $500 from the right of appealing to the Supreme Court of Louisiana, which is guaranteed to him by article 74 of the Constitution of 1868, but from a District Court only, no appeal is provided for from a judgment of a Parish Court to the Supreme Court, either directly or through the District Court.

The answer of Mrs. Carite, in the present case, to the first interrogatory propounded to her (p. 78) shows that there were nineteen different creditors of the community whose claims exceeded five hundred dollars, and who were necessarily interested, more or less, in her suit for separation of property from her husband, and any or all of whom had a right to appeal from the judgment rendered in her favor to the Supreme Court of the State, either before or after judgment, had her case been instituted in the District Court; and which right to appeal they cannot exercise from the judgment of the Parish Court, it being self-evident that that Court would have no jurisdiction to affect them by its judgment; and for the same reason they could not appeal from the judgment of the Parish Court to the District Court, because the District Court could not exercise jurisdiction over an appeal from the judgment in a suit over which it would have had an original jurisdiction only.—See same Constitution, Art. 85.

We have not been able to find any decision of the Supreme Court of Louisiana touching this question of jurisdiction, either directly or indirectly, and we do not believe that there are any such, though it must be clear, that if the question had ever been raised in a

District Court, it must have been decided against the jurisdiction of the Parish Court, and no appeal to the Supreme Court would lie from such a decision; and the Constitution and laws of Louisiana provide no means by which an appeal in such a case could have been directly taken from the Parish Court to the Supreme Court.*

Besides, there is nothing in the pleadings of Mrs. Carite, in her suit against her husband, which goes to show or to give jurisdiction to the Parish Court, and it is a well established rule, that the grounds of the jurisdiction of a tribunal of limited jurisdiction must appear on the face of the proceedings; and if it does not, they will be considered as *coram non judice.*

"It is obvious, that the magistrate had no authority to take cognizance of these cases, and of others which might be stated; and since his jurisdiction was strictly special and limited, it is essential to the validity of his judgment, and of the proceedings under it, that the record should show that he acted upon a case which the law submitted to his jurisdiction."

Walker vs. Turner, 9 Wheaton, page 549.

McClung vs. Ross, 5 Wheaton, page 119.

III.

THE PROPERTY IS COMMUNITY PROPERTY NOTWITHSTANDING THE JUDGMENT OF SEPARATION.

Considering for the sake of argument, that we are in error in all the foregoing propositions, and that the

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(*Since this case was decided in lower Court, the Supreme Court of Louisiana has decided that the Parish Judge had no jurisidiction; in a very similar case, viz.: one arising under Louisiana Civil Code, Art. 127. See Nugent vs. Stark, 30 La. Rep., 493, foot of page).

judgment of separation between Mrs. Carite and her husband was a valid one, still we say that the property in dispute is still liable to our claims as not being the separate property of the wife, but still belonging to the community, just as it did before the proceedings inaugurated by the conspirators had been commenced.

"In a contest between a wife separated in property from her husband, and a judgment creditor of her husband seizing property which she claims as being her separate estate, when the creditor specially denies that the property seized was purchased with the separate funds of the wife, and alleges fraud and collusion between the spouses in obtaining the judgment of separation, *Held:* that in such case, the burden of proof is thrown on the wife to establish the validity of her judgment, and to show how she acquired the property in question."

Phelps vs. Rightor, 15 La. Ann. Rep., page 33.

While referring to the testimony in this case, we will say that the wife has wholly failed to show how she got the money to buy the plantation in dispute, as her separate property.

It was remarked in argument that she obtained money by borrowing it from her friends, but in her answer, on page 77, she makes an entirely different statement. She there says that her friends proposed and offered to make to her necessary advances of money and supplies to *work said plantation* if she could purchase it from Clement, and that in consequence of these offers and proposals she entered into negotiations with Tremoulet, and completed the purchase of the

plantation (p. 77). This is a very different thing from actually borrowing money on her own individual credit, and buying the plantation with it. Your Honors will observe that in no place in this record does the wife show where she got the funds of her own to buy this property, and, on the contrary, all the evidence goes to show, and to prove conclusively, that every cent that Mrs. Carite has paid on account of the purchase of the plantation was simply a part of the profits of the plantation itself.

Tremoulet, however, in his testimony, after detailing his agreements with Mr. Carite, says on page 108, that "Mr. Carite told him he would *see his friends*, and if *his friends* wanted to help him, he would accept his proposal." On page 114, Tremoulet further says, "Mr. Carite was to see some of *his friends* who were going to help him for his wife, to buy it in," and "Carite went down to the city to get some aid from his friends."

We think it evident from these exhibitions, that any money paid by Mrs. Carite for the plantation, if indeed she ever did pay any, was money belonging to the community, and not her own separate property.

"The ability of the wife to acquire, during the marriage, property in her own name and for her separate account, is, under our jurisprudence, an exception to the general rule, C. C. 2374; it must be, therefore, strictly and rigidly construed; and consequently, the wife is required, not only to prove that she had paraphernal effects at her disposal, but also that they were ample to enable her, *reasonably at least*,

to make the new acquisition; otherwise the contract will be treated as a contract of the community."

Bouligny vs. Fortier, 16 La. Ann. Rep., page 214.

Ried vs. Rochereau, 2 Woods, page 155.

Humes vs. Scruggs, 94 U. S., 27.

Jackson vs Jackson, 91 U. S, 122.

IV.

The sales complained of are simulations.

Our bill contains an action *en declaration de simulation* as recognized by the law of Louisiana. We have fully shown this in our analyzation of the testimony going to prove the conspiracy, and even if we have failed to show the conspiracy, the evidence amply proves the simulation. Tremoulet testifies on page 109 that Carite and his wife remained upon the plantation after the seizure, just as they had done, as if no seizure had taken place at all. Mrs. Carite admits the same facts on page 77 of her answer, and all the evidence, as we have before observed, proves that no change was made in the possession of the plantation during the proceedings of the conspiracy.

Therefore, this Court, to speak in the language of the Supreme Court of Louisiana in Herrard vs. Roger, 13 La. Rep., page 129, quoting Baldus, should say :

"*Corpus sine anima et dicitur coloratus depictus, extrinsecus apparens, intrinsecus nihil habens.*"

Bernard vs. Auguste, 1 La. Ann. Rep., 69.

Cammack vs. Watson, 1 La. Ann. Rep., 135, (top of page).

Gravier vs. Carriby, 17 La. Rep., 118.

V.

Prescription.

The respondents have pleaded the prescription of one year. This is easily disposed of. We are seeking to do more than annul a judgment. We say that the judgment of separation is absolutely null even between the parties, and therefore is null as to every one. We say that there is no judgment of separation as to us. There is therefore no question of prescription in the case.

Suc. of Hearing, 28 La. Ann. Rep., 151 (foot of page).

Gates vs. Legendre, 10 Rob. (La.) Rep., 74.

Darcy vs. Labennes, 31 La. Ann. Rep., 404.

Spivey vs. Wilson, 31 La. Ann. Rep., 653.

But regarding our suit as an action to annul a judgment and not to declare its nullity, prescription cannot run against us until we are legally notified of said judgment, which notice could only legally be given by publication as required by the Civil Code, art. 2429, which appellants admit was never done.

We ask that the judgment of the lower Court be affirmed with costs.

Respectfully submitted,

JOSEPH P. HORNOR,

W. S. BENEDICT,

of Counsel for Appellee.

New Orleans, 24th January, 1882.